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FIRST GENERAL COUNSEL'S REPORT

CELA

Pre-MUR: 567

DATES SUBMITTED: November 17, 2013,
March 18, 2014 (Supplement)

DATE ACTIVATED: June 19, 2014

SOL: May 14, 2015-May 3, 2019¹

ELECTION CYCLES: 2010-2014

SOURCE:

Sua Sponte Submission

RESPONDENTS:

Longview Intermediate Holdings C, LLC

Mepco Holdings, LLC

Mepco, LLC

James Laurita, Jr.

Karen Hughes

Kevin O'Dell

Brian Osborn

Steven B. Polce

Richard Usery

Eric Grimm

Kent Lindsay

Christopher Stecher

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30116(a)²

52 U.S.C. § 30122

11 C.F.R. § 110.1(e)

11 C.F.R. § 110.1(g)

INTERNAL REPORTS CHECKED:

Disclosure Reports; Commission Indices

FEDERAL AGENCIES CHECKED:

¹ We have entered into tolling agreements with each of the respondents in this matter, except for Grimm, Lindsay, and Stecher.

² On September 1, 2014, the Federal Election Campaign Act of 1971, as amended, (the "Act") was transferred from Title 2 to new Title 52 of the United States Code.

I. INTRODUCTION

Mepco Holdings, LLC ("Mepco") and its parent company, Longview Intermediate Holdings C, LLC ("Longview") filed a *sua sponte* submission ("Submission"), notifying the Commission that James Laurita, the former Mepco Chief Executive Officer ("CEO"), caused Mepco to reimburse him and eight other executives for federal and state contributions made in the names of the executives and their spouses.⁴ Some of the companies' executives, including Laurita as well as Karen Hughes, R. Kevin O'Dell, Brian M. Osborn, Steven B. Polce, and Richard R. Usery, joined in the Submission.⁵

Records produced by Mepco and disclosure reports filed with the Commission indicate that between 2010 and 2013, a number of Mepco executives were reimbursed for federal political contributions in an amount potentially exceeding \$600,000. In addition, the evidence suggests that those executives were aware that such reimbursements were illegal and acted knowingly and willfully. Accordingly, we recommend that the Commission open a MUR and find reason to believe that Mepco Holdings, LLC, Mepco, LLC, James Laurita, Jr., Karen Hughes, R. Kevin O'Dell, Brian M. Osborn, Steven B. Polce, and Richard R. Usery knowingly

⁴ Submission of Mepco Holdings, LLC and Longview Intermediate Holdings C, LLC at 4 (Nov. 17, 2013) ("Submission").

⁵ See Submission of Karen Hughes, Brian Osborn, Kevin O'Dell, Steven Polce, and Richard Usery (Jan. 29, 2014) ("Co-Executive Submission") at 1; Submission of James Laurita at 1 (Sept. 24, 2014) ("Laurita Submission").

1 and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) by making contributions in
2 the name of another or knowingly permitting their names to be used to effect such contributions.⁶

3 Further, we recommend that the Commission find reason to believe that Mepco Holdings, LLC
4 and Mepco, LLC knowingly and willfully violated 52 U.S.C. § 30116(a)(1) (formerly 2 U.S.C.
5 § 441a(a)(1)) by making excessive contributions.

6 Although the Mepco entities have provided a substantial volume of documentary
7 evidence in connection with the Submission, we have not obtained complete statements from
8 some of the individual respondents, either directly or through counsel, which may help clarify
9 the extent to which certain officers personally participated in the reimbursement program and
10 afford us a better understanding of possible mitigating or aggravating facts particular to those
11 individuals. Therefore, we propose to conduct an investigation and recommend that the
12 Commission authorize the use of compulsory process, as necessary.

13 II. FACTUAL BACKGROUND

14 A. Respondents

15 Mepco is a holding company that owns and operates numerous coal-related businesses,
16 including Mepco, LLC.⁸ Mepco has been managed by three generations of the Laurita family,
17 including James Laurita, Jr., who was the President and Chief Executive Officer of both Mepco
18 and Mepco, LLC, until he resigned in November 2013.⁹ Mepco is a subsidiary of Longivew,

⁶ With respect to Eric Grimm, Kent Lindsay, and Christopher Stecher, we plan to make the appropriate recommendations once we have received their responses.

⁸ Submission at 2; Letter from Bridget K. O'Connor, Kirkland & Ellis LLP, to Mark Shonkwiler and Jin Lee, FEC, at 1 (Sept. 3, 2014) ("Sept. 3, 2014 Letter").

⁹ Submission at 2; Sept. 3, 2014 Letter at 2.

1 which owns another subsidiary, Longview Power, LLC ("Longview Power"), which operates a
2 coal-fired power facility.¹⁰ Mepco provides Longview Power with coal to operate its power
3 facility.¹¹ Longview owns a 92.2% interest in Mepco with Laurita owning the remaining 7.8%.¹²
4 Mepco and Longview filed petitions for Chapter 11 bankruptcy petition in August 2013.¹³
5 Neither Mepco nor any of its subsidiaries, which are also LLCs, elected to be taxed as
6 corporations under the Internal Revenue Code.¹⁴

7 The other executives who received reimbursements for contributions include five
8 individuals who are currently employed by Mepco and are Respondents in this matter: (1) Karen
9 Hughes, Secretary and Treasurer, Mepco; (2) R. Kevin O'Dell, Vice President of Human
10 Resources and Safety, Mepco, LLC; (3) Brian M. Osborn, Vice President of Engineering,
11 Mepco, LLC; (4) Steven B. Polce, Vice President of Dana Mining for West Virginia, a
12 subsidiary of Mepco;¹⁵ and (5) Richard R. Usery, Vice President — Coal Sales and Surface
13 Operations, Mepco, LLC.¹⁶ Three other individuals, who no longer work for Mepco and did not
14 join in the Submission, also appeared to have participated in the reimbursement program: Eric

¹⁰ Submission at 2.

¹¹ *Id.*

¹² See Voluntary Petition, *In re: Mepco Holdings, LLC*, Case No. 13:12219 (D. Del. Aug. 30, 2013) at 25 ("Mepco Bankr. Pet.").

¹³ *Id.*; Submission at 2. The ultimate parent entity of Longview and Mepco is GenPower Holdings GP ("GenPower GP"), which is not a debtor in the bankruptcy proceeding. See Mepco Bankr. Pet. at 25.

¹⁴ See E-mail from Bridget O'Connor, Kirkland & Ellis to Jin Lee, FEC (May 14, 2014 10:33 am).

¹⁵ Counsel for Mepco states that while Polce and Eric Grimm were formally officers of Dana Mining and Dana Mining Pennsylvania, which also were subsidiaries of Mepco, Polce and Grimm were also treated as officers of Mepco, LLC. Sept. 3, 2014 Letter at 2.

¹⁶ Submission at 4.

1 Grimm, the former Vice President of Dana Mining;¹⁷ Kent Lindsay, the former Chief Financial
2 Officer ("CFO") of Mepco and Mepco, LLC; and Christopher Stecher, the former CFO and
3 Manager of Accounting of Mepco.¹⁸

4 **B. Mepco's Reimbursement of Political Contributions to Federal Candidates**
5 **from 2010 through 2013.**
6

7 According to the Submission, after the 2008 election, Mepco's officers decided that the
8 company should become more politically active by making contributions to federal and state
9 candidates who were likely to support the coal industry.¹⁹ On March 4, 2010, Laurita requested
10 that eight Mepco officers, who included Karen Hughes, Kent Lindsay, Rick Usery, Eric Grimm,
11 Steve Polce, Kevin O'Dell, Brian Osborn, and Christopher Stecher, attend a meeting the next day
12 to discuss elections and support for particular candidates.²⁰ As a follow-up to the March 5
13 meeting, Laurita sent another e-mail asking those officers that they make contributions in
14 specific dollar amounts to four candidates, three of whom were federal candidates running for
15 seats in the House of Representatives: Mike Oliverio, David McKinley, and Sarah Minear.
16 Laurita also suggested contribution amounts.²¹ At Laurita's request, Mepco began reimbursing
17 executives for political contributions on March 9, 2010.²² According to Mepco LLC's payroll
18 records, on that date, Osborn, Hughes, Polce, O'Dell, Usery, Grimm, Stecher, and Lindsay all

¹⁷ *Id.* Grimm left Mepco on November 29, 2013. Supplemental Submission of Mepco (Mar. 18, 2014) ("Supp. Submission") at 3.

¹⁸ Stecher served as CFO from February 2006 to July 2009, and Lindsay served as CFO from July 2009 until October 2012. *Id.*

¹⁹ See Supp. Submission at 3.

²⁰ E-mail from James Laurita to Karen Hughes, *et al.* (Mar. 4, 2010 12:05 pm) (Mepco_00000281).

²¹ *Id.*

²² See Supp. Submission at 3.

received a \$20,000 bonus.²³ Based on an e-mail string from March 2010, it appears that Mepco awarded these bonuses so that officers could make political contributions to state and federal candidates. On March 9, 2010, O'Dell forwarded Laurita's e-mails to his spouse, Dawn O'Dell, and instructed her to make contributions per Laurita's request and that she should use funds from an after-tax deposit of \$11,456, which appears to correspond to the pre-tax \$20,000 March 9 bonus from Mepco, LLC.²⁴

From March 2010 through March 2013, Mepco continued to provide its executives with bonus payments to be used for political contributions.²⁵ As the Submission and Commission disclosure reports indicate, Laurita and the eight other Mepco officers involved in the reimbursement program contributed over \$600,000 to federal candidates between 2010 and 2013,²⁶ and as further described below, most if not all of these contributions appear to have been reimbursed.²⁷

Table 1. — Reimbursed Contributions Between 2010 and 2013 by Recipient

Committee	Amount
Citizens for Altmire	\$35,300.00
Capito for Congress	\$11,500.00
Capito for West Virginia	\$34,800.00
Mark Critz for Congress	\$86,400.00
Manchin for West Virginia	\$76,300.00
Spike Maynard for Congress	\$12,800.00

²³ See 2010 Mepco LLC Payroll Records.

²⁴ E-mail from Kevin O'Dell to Dawn O'Dell (Mar. 9, 2010 2:38 pm) (Mepco_00000279).

²⁵ See Supp. Submission at 3; Mepco Combined Contribution Chart, Attach. A. We note that Laurita made two contributions in 2009 to Citizens for Altmire (\$2,500) and Capito for Congress (\$1,000) and was reimbursed for these contributions in late 2012, but the company-wide scheme involving reimbursement of the contributions of other executives apparently did not begin until March 2010.

²⁶ See Mepco Combined Contribution Chart, Attach. A.

²⁷ We use "reimburse" generally to describe both advances and subsequent repayments for contributions.

McKinley for Congress	\$113,700.00
Minear for Congress	\$6,000.00
Tim Murphy for Congress	\$3,750.00
Oliverio for Congress	\$84,400.00
Tom Smith for Senate	\$17,500.00
Snuffer for Congress	\$19,193.52
Griffith for Congress	\$1,000.00
Keadle for Congress	\$5,000.00
Mike Kelly for Congress	\$1,000.00
McConnell for Senate 2014	\$2,500.00
Romney Victory, Inc.	\$50,000.00
NRCC	\$40,400.00
West Virginia Republican Party	\$30,000.00
Total:	\$631,543.52

Mepco states that the manner in which it reimbursed its executives varied.²⁸ Laurita would at times identify candidates friendly to the coal industry and request or "instruct," either orally or in writing, that company officers, along with their spouses, make contributions to those candidates.²⁹ In other instances, executives made candidate recommendations to Laurita.³⁰ Executives stated that on occasion they would discuss political candidates at monthly management meetings or in other group settings.³¹

When not personally soliciting contributions, Laurita frequently relied on either Hughes, who handled administrative tasks related to Mepco's finances and payroll, or his assistant, Suzanne Crane (née Likins), to convey his requests.³² Hughes and Crane communicated with

²⁸ Supp. Submission at 4.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*; see also E-mail from James Laurita to Suzanne Crane (Mar. 6, 2013 1:42 pm) (MEPCO_00000071) (requesting that each officer and his or her spouse contribute \$2,500); E-mail from James Laurita to Karen Hughes (Sept. 13, 2012 4:50 am) (MEPCO_00000982-983) ("Karen, I forgot about this fund-raiser. Will need \$1,000 from each officer."); E-mail from James Laurita to Suzanne Crane (Mar. 6, 2013 1:46 pm) (MEPCO_00000792) ("Ask

1 executives both orally and in writing, indicating which candidates should receive contributions
2 and in what amount.³³ Often accompanying their requests were contribution forms for specific
3 candidates or fundraising events.³⁴

4 Once the officers received the requests, they or their spouses would make contributions
5 online or by check.³⁵ Typically, the executives provided checks to Hughes instead of submitting
6 them directly to a campaign or candidate.³⁶

7 At Laurita's request, Hughes and staff in the payroll department would arrange for
8 officers to receive reimbursement through "bonuses" paid through Mepco's payroll system.³⁷
9 Hughes maintained extensive charts that reflected contributions made by each executive and the
10 payment of reimbursements.³⁸ Specifically, payroll records indicate that funds used for
11 reimbursements came from Mepco's wholly owned subsidiary, Mepco LLC.³⁹ The method and
12 amounts of the reimbursements varied, and the payments were not made at regular intervals.⁴⁰
13 The timing of the "bonuses" also varied in that executives received compensation for

the officers to contribute \$2,500 x 2 here too"); E-mail from Karen Hughes to Brian Osborn and Eric Grimm (Sept. 28, 2010) (MEPCO_00000197) ("Are you making a donation as suggested so I can add it to your reimbursement?").

³³ Supp. Submission at 4; *see also* E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:07 pm) (MEPCO_00003986) ("By the end of the day tomorrow (Thursday), please provide your check in the amount of \$500 payable to 'Capito for Congress.'").

³⁴ Supp. Submission at 4; *see also* E-mail from Suzanne Likins to Eric Grimm, *et al.* (Sept. 19, 2012 3:01 pm) (MEPCO_00005220-221).

³⁵ Supp. Submission at 5.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Supp. Submission at 4; *see also* E-mail from Karen Hughes to Rodney Bolyard (Nov. 16, 2012 1:05 pm), MEPCO_00000131-132 (reflecting candidate contributions and payment of reimbursements from 2010-2012).

³⁹ *See* 2010-2013 Mepco Payroll Records.

⁴⁰ Supp. Submission at 4.

1 contributions either before or after making them.⁴¹ Sometimes, reimbursements were tied to
2 specific contributions made to a particular campaign.⁴² In other instances, executives received
3 lump sum payments deposited into their accounts from which they were to make contributions.⁴³
4 And still in others, Hughes would simply ask executives to provide a list of contributions they
5 had already made, so she could reimburse them accordingly.⁴⁴

6 In many instances, executives contributed through campaign fundraisers hosted by
7 Laurita,⁴⁵ who often used company resources to hold them.⁴⁶ Frequently, Laurita's assistant,

⁴¹ *Id.* Compare E-mail from Karen Hughes to Kevin O'Dell (Oct. 4, 2010 12:04pm) (MEPCO_00000177) ("The yellow highlights are those donations I have not yet received from you. If you intend to make those donations, please fill in the amount and return to me. I plan to make reimbursements to hit your bank on Wednesday."), with E-mail from Karen Hughes to Kevin O'Dell (Sept. 20, 2011 10:41 am) (MEPCO_00000257) ("You have \$7,056 in your account that is not yours. Save for future contributions.").

⁴² Supp. Submission at 4; E-mail from Karen Hughes to Brian Osborn and Eric Grimm (Sept. 28, 2010 9:10 am) (MEPCO_00000197) (asking whether Osborn or Grimm planned on making a "donation" to attend fundraiser for Congressman David McKinley so that funds could be added to their "reimbursements").

⁴³ Supp. Submission at 4; E-mail from Kevin O'Dell to Dawn O'Dell (Mar. 9, 2010 2:38 pm) (Mepco_00000279) ("The after tax deposit was \$11,456. We will pay out \$6,800 in the Primary and use the rest in the general later this year. We will have \$4,658 in our account for a few months.").

⁴⁴ See E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 15, 2010) (MEPCO_00000201) ("would you please send me a list of all the political contributions (both by check and credit card) you have made since the May primaries? I have been really really swamped over the past few days and haven't had a chance to tally for each of you.") (emphasis in original); E-mail from Eric Grimm to Karen Hughes (Sept. 18, 2010 3:22 pm) (MEPCO_00000111) (providing itemized list of contributions made from personal funds deposited into Grimm's personal account); E-mail from Karen Hughes to Brian Osborn (Mar. 28, 2012 2:16 pm), MEPCO_00000154-55 ("Please verify my records, but I show that you wrote checks for \$27,500 (including Manchin) which would be deducted from the \$28,000 net bonus.").

⁴⁵ See, e.g., Invitation to Fundraiser for Congressman Jason Altmire (MEPCO_00006783) ("Altmire Invitation"); E-mail from Suzanne Likins to Karen Hughes, *et al.* (Aug. 16, 2011, 12:56 pm) (MEPCO_00001498) (inviting MEPCO executives to fundraiser for Congressman Jason Altmire, hosted by Laurita and his spouse, Becky); E-mail from Suzanne Crane to Suzanne Crane, *et al.* (Mar. 26, 2013 08:17 am) (MEPCO_00004645-46) (inviting Mepco executives and other guests to fundraiser for U.S. Senate candidate Shelley Moore Capito, hosted by Laurita) ("Capito 2013 Invitation"); Invitation to Fundraiser for Congressman Mark Critz (MEPCO_00000089) ("Critz Invitation"); E-mail from Suzanne Likins to Suzanne Likins, *et al.* (Mar. 21, 2012 10:02 am) (MEPCO_00006026) (invitation to fundraiser for Senator Joe Manchin) ("Manchin 2012 Invitation"); Invitation to Fundraiser for Congressman David McKinley (MEPCO_00004015).

⁴⁶ See, e.g., Letter from Ron Clark, Purchasing Director, Mepco (June 21, 2010) (MEPCO_00003706) (inviting guests to fundraiser for U.S. House of Representatives candidate Mike Oliverio held at Mepco offices).

1 Suzanne Crane, assisted Laurita with planning these fundraisers and sending out invitations as
2 well as working directly with the candidates' campaigns.⁴⁷

3 Laurita and his wife made over \$250,000 in federal contributions between 2009 and
4 2012, and it does not appear that Laurita received reimbursement for those contributions until the
5 end of 2012. On December 10, 2012, Laurita sent Hughes an e-mail stating, "I am going to have
6 Suzanne send me my political donation total for the last few years, and have Mepco reimburse
7 me before year end to avoid tax increases"⁴⁸ That same day, Crane informed Laurita that
8 the total for his "political" giving was \$258,875 and also provided him with a spreadsheet
9 itemizing his federal and state contributions from 2009-2012, where the federal contributions
10 totaled \$267,750.⁴⁹ Laurita then forwarded that information to Hughes, and they agreed that
11 Mepco would reimburse him through payroll.⁵⁰ According to Mepco's payroll records, Laurita
12 was awarded a bonus of \$660,000 on December 28, 2010, which appears to include the funds
13 reimbursing him for his contributions.⁵¹ Mepco's counsel confirmed that that the bonus was
14 likely made to reimburse Laurita for his federal and state contributions.⁵²

15 **C. Discovery of Reimbursement Program**

16 On August 30, 2013, Mepco and Longview filed petitions for Chapter 11 bankruptcy. In
17 the course of the restructuring process, Mepco's restructuring counsel, Kirkland and Ellis, LLP,

⁴⁷ See, e.g., E-mail from Suzanne Likins to James Laurita (Aug. 16, 2011 08:17 am) (MEPCO_00002581) (picking up campaign signs for fundraising event to be held at Laurita's residence); Capito 2013 Invitation, *supra*, n. 45; Manchin 2012 Invitation, *supra*, n. 45.

⁴⁸ E-mail from James Laurita to Karen Hughes (Dec. 10, 2012, 07:29 am) (MEPCO_00000107).

⁴⁹ E-mail from Suzanne Likins to James Laurita (Dec. 10, 2012, 07:47 am) (MEPCO_00000077); E-mail from James Laurita to Karen Hughes (Dec. 11, 2012 4:15 am) (MEPCO_00000012-13).

⁵⁰ E-mail from James Laurita to Karen Hughes (Dec. 10, 2012, 08:36 am) (MEPCO_00000077).

⁵¹ See Mepco, LLC Payroll Records, James L. Laurita (Jan. 1, 2011-Dec. 31, 2013).

⁵² Memo to File Re: Report of Telecon (May 4, 2014).

1 ("K&E") reviewed Mepco's books and records to prepare a filing in the Bankruptcy Court.⁵³ On
2 September 26, 2013, counsel learned about a category of compensation for Mepco executives
3 called "other bonus," and when K&E inquired about this bonus category, Mepco's current Chief
4 Financial Officer responded that the category represented company funds used to reimburse (or
5 advance) executives for political contributions.⁵⁴ The next day, K&E notified Longview's CEO,
6 who authorized further investigation.⁵⁵ After the investigation, Laurita resigned as CEO and as a
7 Board member of Mepco on November 10, 2013.⁵⁶

8 III. LEGAL ANALYSIS

9 A. Contributions Made in the Name of Another

10 1. There is Reason to Believe that Mepco and Its Executives Knowingly and
11 Willfully Violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f)
12

13 The Act prohibits a person from making a contribution in the name of another or
14 knowingly permitting his or her name to be used to effect such a contribution.⁵⁷ The prohibition
15 extends to knowingly helping or assisting any person in making a contribution made in the name
16 of another.⁵⁸ The term "person" for purposes of the Act and Commission regulations includes
17 partnerships, corporations, and other organizations, including LLCs.⁵⁹

⁵³ Submission at 2.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.* n.1.

⁵⁷ 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(i).

⁵⁸ 11 C.F.R. § 110.4(b)(1)(iii).

⁵⁹ See 52 U.S.C. § 30101(11) (formerly 2 U.S.C. § 431(11)); 11 C.F.R. § 100.10; Advisory Op. 2009-02 (True Patriot Network) at 3.

1 A principal is liable vicariously for the acts of its agent committed within the scope of
2 agency.⁶⁰ Here, based on the actions of its executives, Mepco admits that it reimbursed its
3 executives for making political contributions.⁶¹ In addition, Laurita and the executives who are
4 currently employed by Mepco — including Hughes, O'Dell, Osborn, Polce, and Userly — admit
5 that they received reimbursements for making contributions. Mepco used funds from its wholly
6 owned subsidiary, Mepco LLC, to compensate its executives for making contributions to federal
7 candidates and other political committees. Mepco therefore made contributions in the name of
8 another in violation of section 30122 (formerly section 441f). Further, by accepting
9 reimbursements for contributions they made to candidates and political committees and thus
10 serving as conduits in Mepco's reimbursement program, Mepco executives appeared to have
11 knowingly permitted their names to effect contributions made in the name of another in violation
12 of section 30122.

13 In addition, the facts appear to indicate that respondents acted knowingly and willfully.
14 A violation of the Act is knowing and willful if the "acts were committed with full knowledge of
15 all the relevant facts and a recognition that the action is prohibited by law."⁶² This does not
16 require proving knowledge of the specific statute or regulation the respondent allegedly
17 violated.⁶³ Instead, it is sufficient to demonstrate that a respondent "acted voluntarily and was

⁶⁰ RESTATEMENT (THIRD) OF AGENCY § 7.07; *see also United States v. Sun-Diamond Growers of Cal.*, 138 F.3d 961 (D.C. Cir. 1998) (affirming criminal convictions against corporation in connection with a contribution reimbursement scheme where officer hid the scheme from others in corporation but acted to benefit the corporation).

⁶¹ Submission at 1; Supp. Submission at 1.

⁶² 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

⁶³ *United States v. Danielczyk*, ___ F. Supp. 2d ___, 2013 WL 124119, *5 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

1 aware that his conduct was unlawful.”⁶⁴ This may be shown by circumstantial evidence from
2 which the respondents’ unlawful intent reasonably may be inferred.⁶⁵ For example, a person’s
3 awareness that an action is prohibited may be inferred from “the [person’s] elaborate scheme for
4 disguising their . . . political contributions.”⁶⁶

5 In his submission, Laurita denies that he had any knowledge that Mepco’s reimbursement
6 program was unlawful until October 2013 when the Chief Executive of Longview notified him
7 that the program was illegal and the program ended.⁶⁷ But the record here indicates that the
8 Laurita and the eight other Mepco executives — Lindsay, Stecher, Osborn, Usery, O’Dell, Polce,
9 Grimm, and Hughes — were aware of the prohibitions and limits relating to political
10 contributions prior to October 2013. On numerous occasions, campaigns informed them about
11 the rules for making campaign contributions.⁶⁸ For example, on August 22, 2012, Laurita

⁶⁴ *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

⁶⁵ *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants’ convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

⁶⁶ *Id.* at 214-15. As the *Hopkins* court noted, “It has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

⁶⁷ Laurita Submission at 2.

⁶⁸ *See, e.g.*, E-mail from Karen Hughes to Karen Hughes (Sept. 30, 2010 10:41 am) (MEPCO_00000191-192) (attaching contribution form from Spike Maynard for Congress, stating: “Please Confirm — This contribution is made from my own funds and will not be reimbursed by any other person or entity.”); E-mail from Suzanne Hammond, Snuffer U.S. Congress to Suzanne Likins, Mepco, LLC (Oct. 3, 2012 9:41am) (MEPCO_00000225-227, at 226) (stating that the campaign could only accept contributions from individuals).

Laurita also appears to have been aware that Mepco and its subsidiaries could have each made contributions given that he inquired about the ability of LLCs to make contributions. *See* E-mail from Louis S. Southworth, Jackson Kelly PLLC to Bill Raney, West Virginia Coal Association and James Laurita (Aug. 10, 2010 11:05 am) (MEPCO_00000066). Nevertheless, neither Mepco nor any of its affiliates made any direct contributions to candidates; rather, Laurita appears to have continued his practice of requesting that executives make contributions in their own names, which would be reimbursed by Mepco. *See* Supp. Submission at 4 (indicating that as a general practice, Laurita requested that officers make contributions which were to be reimbursed).

1 appears to have e-mailed to Grimm and Hughes an invitation for a fundraiser hosted by Laurita,
2 which stated, "[c]ontributions must be made from your own funds, and funds cannot be provided
3 to you by another person or entity for the purpose of making this contribution."⁶⁹ In June 2010,
4 Hughes informed another Mepco colleague: "Companies cannot donate to anything political,
5 only individuals."⁷⁰

6 Further, Hughes's e-mail communications instruct other senior Mepco officers to destroy
7 e-mails stating that they would receive reimbursements for their contributions. In an e-mail to
8 six other Mepco executives, with a subject line entitled, "Manchin," Hughes writes "You will be
9 receiving a \$1,000(net) bonus by direct deposit in the next few days. Please delete this email."⁷¹
10 In another e-mail, Hughes informs seven Mepco executives: "By the end of the day tomorrow
11 (Thursday), please provide your check in the amount of \$500 payable to 'Capito for
12 Congress.'"⁷² One minute later, she sends another e-mail with the subject line "Delete this e-
13 mail" to the same individuals and states, "I'll reimburse you in the next couple days."⁷³

14 Mepco and the individual respondents request that the Commission take no action as to
15 any of the respondents in light of the corrective measures they have taken and their cooperation
16 with the Commission in providing requested information. The Commission has pursued similar

⁶⁹ E-mail from James Laurita to Eric Grimm and Karen Hughes (Aug. 22, 2012 5:02 am) (MEPCO_000000119-121) ("In essence, I was only going to have Becky and I, and Your [sic] and Sheryl give to Critz (see attached). If you agree with that, Karen will take care of adjusting your account."); *see also* Invitation to Fundraiser for Citizens for Altmire hosted by James and Rebecca Laurita (MEPCO_00004227) ("Contributions are limited to personal funds of \$2,500 per person . . .").

⁷⁰ E-mail from Karen Hughes to Ron Clark (June 4, 2010 9:47 am) (MEPCO_00004005).

⁷¹ E-mail from Karen Hughes to Kent Lindsay, *et al.* (Aug. 13, 2010 8:49 pm) (MEPCO_00000215).

⁷² E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:07 pm) (MEPCO_00000212).

⁷³ E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:08pm) (MEPCO_00000211).

1 *sua sponte* matters involving reimbursement schemes, however, especially where the violations
2 appeared to be knowing and willful.⁷⁴

3 It is true that, as a matter of policy, the Commission has concluded that it may in
4 appropriate circumstances “[r]efrain from making a formal finding that a violation was knowing
5 and willful, even where the available information would otherwise support such a finding.”⁷⁵
6 However, where certain aggravating factors are present, the Commission has made knowing and
7 willful findings as to the organization itself and has found that respondents acted knowingly and
8 willfully where knowledge of the illegal nature of the activity can be attributed to its most senior
9 officers and efforts to conceal the conduct.⁷⁶ Here, the CEO and other senior executives were
10 repeatedly informed about the prohibitions and limitations of the Act and sought to destroy
11 evidence of their illegal activity. Further, Mepco’s reimbursement program was not a “one-time
12 event” but “an ongoing pattern of conduct repeated over an extended period of time” resulting in
13 the reimbursement of contributions apparently worth more than \$600,000.⁷⁷ Given the egregious
14 nature of the scheme here, which would have likely continued, but for the fact that it came to
15 light only when outside counsel inquired into the financial accounting of the entities in

⁷⁴ See, e.g., MUR 6515 (Professional Fire Fighters of Wisconsin) (Commission entered into conciliation agreement for knowing and willful 441f violations); MUR 6143 (Galen Capital Group) (same); MUR 6454 (Snapper) (same). But see MUR 5357 (Centex) (Commission entered into conciliation agreement with respect to non-knowing and willful 441f violations based on mitigating circumstances).

⁷⁵ See Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16,695, 16,696 (Apr. 5, 2007) (“*Sua Sponte* Policy”).

⁷⁶ See, e.g., MUR 6515 (Professional Fire Fighters of Wisconsin) (Commission found reason to believe that respondents knowingly and willfully violated the Act where officers of the Executive Board submitted false expense forms to receive reimbursements for political contributions); MUR 6143 (Galen Capital Group) (Commission found reason to believe respondents knowingly and willfully violated the Act where CEO and other conduits signed donor cards containing warnings against reimbursed contributions and where CEO attempted to conceal true purpose of reimbursement checks). See also *Sua Sponte* Policy, 72 Fed. Reg. at 16,697.

⁷⁷ *Sua Sponte* Policy at 16,697.

1 connection with Mepco's bankruptcy proceeding, we do not believe the present circumstances
2 warrant refraining from making a knowing and willful finding in this case.

3 While the evidence indicates that Laurita was the principal actor who led the
4 reimbursement scheme, the factual record here indicates that Laurita consulted his executives
5 about the reimbursement program, these executives actively participated in the program, and
6 they apparently joined in efforts to destroy evidence of the reimbursements, demonstrating
7 knowledge that their activity was illegal. Consequently, we believe pursuing the other
8 executives is also appropriate.⁷⁸ We have found no evidence that Laurita forced any executive to
9 contribute, and there was at least one instance where an executive chose not to contribute and
10 was not penalized for that decision.⁷⁹ In some instances, the executives themselves would
11 recommend to Laurita candidates who should receive contributions. Thus, the circumstances in
12 this matter are markedly different than those in MUR 6143 (Galen Capital), where the
13 Commission ultimately voted to take no further action as to certain lower level officers.⁸⁰

14 Accordingly, we recommend that the Commission find reason to believe that Mepco
15 Holdings, LLC; Mepco LLC; James Laurita, Jr.; Karen Hughes; R. Kevin O'Dell; Brian M.
16 Osborn; Steven B. Polce; and Richard R. Usery knowingly and willfully violated 52 U.S.C. §
17 30122 (formerly 2 U.S.C. § 441f).⁸¹

⁷⁸ Moreover, it appears that Hughes knowingly helped and assisted the making of prohibited contributions under 11 C.F.R. § 110.4(b)(1)(iii) by processing and tracking the executives' contributions and reimbursements.

⁷⁹ Supp. Submission at 4.

⁸⁰ We note that in MUR 6143, after making reason to believe findings as to certain lower level officers of a corporation, the Commission decided to take no further action as to those officers where the investigation revealed that those officers had little power in the corporation, were not consulted about the reimbursement scheme, and were not always informed that they would be receiving reimbursements.

⁸¹ Although funds from Mepco LLC were used to make contributions, we make findings as to Mepco Holdings LLC as well given the companies' close relationship, Mepco's own admission, and past Commission

2. Spouses of Mepco Executives Served as Conduits for Reimbursed Contributions

The available information indicates that Mepco also reimbursed its executives for contributions made in their spouses' names. Some spouses appear to have been aware that they would be receiving reimbursements, but the evidence does not indicate that they played a significant role. In such circumstances, the Commission has not pursued spouses.⁸² Accordingly, we do not recommend that the Commission make any findings as to the spouses at this time. If we uncover additional information about the spouses' involvement during the course of the investigation, we will make the appropriate recommendations at that time.

3. The Available Information Does Not Indicate that Committees Knowingly Accepted Contributions Made in the Name of Another

Knowingly accepting a contribution made by one person in the name of another person is also a violation of the Act.⁸³ Although Mepco appears to have knowingly and willfully made contributions in the name of another, we have found no evidence that the recipient committees knowingly accepted such contributions. In fact, campaigns often informed Mepco executives that they could only accept contributions made with personal funds. We therefore make no recommendation as to them but plan to require that Mepco advise each campaign of the contributions made with company funds, waive its right to a refund, and request that the

precedent. In MUR 5849 (Bank of America), the Commission pursued the parent organization where parent organization filed the submission and admitted to the violations.

⁸² See MUR 6143 (Galen Capital); MUR 5871 (Noe).

⁸³ 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f).

committees disgorge the illegal contributions as part of a conciliation agreement, consistent with the Commission's practice in similar matters.⁸⁴

4. Longview Intermediate Holdings C LLC Does Not Appear to Have been Involved in the Reimbursement Scheme

Although Longview also filed the Submission along with Mepco, neither the Submission nor other documentary information indicates that Longview was involved in the making of the reimbursed contributions. Accordingly, until the conclusion of the proposed investigation, we recommend that the Commission make no findings as to Longview at this time.

B. Contributions Exceeding the Limits of the Act

1. There is Reason to Believe that Mepco and Mepco, LLC Knowingly and Willfully Violated 52 U.S.C. § 30116(a) (formerly 2 U.S.C. § 441a(a)).

The Act provides that no person shall make contributions to any federal candidate and his or her authorized political committee, which in the aggregate, exceed \$2,000.⁸⁵ Contribution limits are indexed for inflation, and therefore, the limit for the 2010 election cycle was \$2,400 per election, and \$2,500 for the 2012 election cycle, and \$2,600 for the 2014 election cycle.⁸⁶

Commission regulations provide that an LLC may make contributions depending on how it elects to be treated under the Internal Revenue Service ("IRS") "check the box" rules.⁸⁷ An LLC that elects to be treated as a partnership under IRS rules or does not elect to be treated as either a corporation or a partnership may make a contribution and is subject to the contribution

⁸⁴ See, e.g., Conciliation Agreement at ¶ VII.3, MUR 6515 (Professional Fire Fighters of Wisconsin); Conciliation Agreement at ¶ VI.4, MUR 6618 (United Power, Inc.); Conciliation Agreement at ¶ VI.3, MUR 6516 (Timothy Mobley).

⁸⁵ 52 U.S.C. § 30116(a)(1) (formerly 2 U.S.C. § 441a(a)(1)).

⁸⁶ See 11 C.F.R. §§ 110.1(b)(1)(i), 110.17(b).

⁸⁷ *Id.* § 110.1(g).

1 limits that apply to partnerships at 11 C.F.R. § 110.1(e).⁸⁸ Contributions made by partnerships
2 are attributable both to the partnerships and to the partnerships according to the partnership
3 agreement or according to a formula set forth in Commission regulations.⁸⁹ In contrast, an LLC
4 that elects to be treated as a corporation by the IRS is treated as a corporation for contribution
5 purposes and is prohibited from making contributions.⁹⁰

6 Mepco, Longview, and their subsidiaries are LLCs, but neither Mepco, Longview
7 Holdings, nor Mepco, LLC are taxed as corporations under IRS rules.⁹¹ Thus, Commission
8 regulations treat them as partnerships, and their contributions are subject to 11 C.F.R. § 110.1(e).
9 As such, Mepco was limited to making a \$2,400 contribution to a federal candidate per election
10 during the 2010 cycle, \$2,500 contribution during the 2012 cycle, and \$2,600 contribution during
11 the 2014 cycle. The factual record indicates that Mepco made contributions that exceed these
12 limits when it reimbursed executives for making contributions to federal candidates. Typically,
13 Mepco made its contributions in the names of numerous, and sometimes all of its executives at
14 the same time, resulting in excessive contributions to federal candidates.⁹² For example,
15 Commission disclosure reports indicate that six Mepco executives and their spouses contributed
16 over \$34,000 to Capito for Senate for the 2014 primary election. Because these contributions
17 were likely reimbursed, Mepco appears to have made an excessive contribution in this instance.
18 Further, by using company resources in planning and holding fundraisers for candidates, Mepco
19 made additional in-kind contributions to the same candidates.

⁸⁸ See *id.* § 110.1(g)(2).

⁸⁹ *Id.* § 110.1(e).

⁹⁰ *Id.* § 110.1(g)(3).

⁹¹ See E-mail from Bridget K. O'Connor, Kirkland & Ellis, LLP to Jin Lee, FEC (May 14, 2014 10:33 am).

⁹² See Mepco Combined Contribution Chart.

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1 In addition, for much the same reasons noted above, the making of excessive
2 contributions also appears to have been knowing and willful — Mepco executives were advised
3 of the Act's contribution limitations, invitations to fundraisers generally contained information
4 about maximum contribution levels, and executives and their spouses also signed reattribution
5 letters referencing their familiarity with Commission regulations relating to the treatment of
6 excessive contributions.⁹³ Moreover, on one occasion, Congressman David McKinley forwarded
7 Laurita a copy of the Commission's Contribution Limits Chart for 2011 to 2012.⁹⁴ In an April
8 2012 e-mail to Laurita, Eric Grimm wrote, "I believe I have sorted out the different times we
9 have contributed to Altmire and Critz for the 2012 Primary starting in 2011. We are all pretty
10 well maxed out on Critz and have some room with Altmire."⁹⁵

11 Accordingly, we recommend that the Commission find reason to believe that Mepco
12 Holdings, LLC and Mepco, LLC knowingly and willfully violated 52 U.S.C. § 30116(a)(1)
13 (formerly 2 U.S.C. § 441a(a)(1)) by making excessive contributions.

14 2. The Available Information Does Not Indicate that Committees Knowingly
15 Accepted Excessive Contributions from Mepco
16

17 The Act prohibits a candidate or political committee from knowingly accepting an
18 excessive contribution.⁹⁶ As stated above, we have no information that the committees which
19 accepted the contributions in question were aware that executives of Mepco were reimbursed;
20 thus, there is equally no evidence at this time indicating that the committees knowingly
21 accepted excessive contributions. Further, the available information indicates that the

⁹³ See, e.g., Letters from Steven Polce, Mepco, and Victoria Polce to Critz for Congress Committee (July 11, 2011) (Mepco_00003792, 3795) (requesting reattribution of contributions "[i]n accordance with FEC regulations").

⁹⁴ E-mail from David B. McKinley to James Laurita (Feb. 24, 2011 5:20 pm) (MEPCO_00002869-870).

⁹⁵ E-mail from Eric Grimm to James Laurita (Apr. 7, 2012) (MEPCO_00002278).

⁹⁶ 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)).

1 committees generally advised the respondents of the applicable limits. Accordingly, we make
2 no recommendation as to the committees for knowingly accepting excessive contributions at
3 this time.

4 **IV. PROPOSED INVESTIGATION**

5 Although Mepco has provided substantial documentary evidence in connection with its
6 Submission, we lack a complete factual record. The information concerning the level of
7 involvement of individual Respondents — including evidence of mitigating or aggravating
8 factors concerning particular individuals — remains incomplete, and we have yet to compile a
9 definitive list of all reimbursed contributions and the total amount of those contributions.

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16 Although we intend to seek information voluntarily, we request that
17 the Commission authorize the use of compulsory process, including the issuance of appropriate
18 interrogatories, document subpoenas, and deposition subpoenas, as necessary.

V. RECOMMENDATIONS

1. Open a Matter Under Review.
2. Find reason to believe that violated Mepco Holdings, LLC; Mepco, LLC; James Laurita, Jr.; Karen Hughes; R. Kevin O'Dell, Brian M. Osborn, Steven B. Polce, and Richard R. Usery knowingly and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f).
3. Find reason to believe that Mepco Holdings, LLC and Mepco, LLC knowingly and willfully violated 52 U.S.C. § 30116 (formerly 2 U.S.C. § 441a(a)).
4. Approve the attached Factual and Legal Analyses.
5. Authorize the use of compulsory process.
6. Approve the appropriate letters.

Date: 10/17/14


Daniel A. Petalas
Associate General Counsel


Mark Shonkwiler
Assistant General Counsel


Jin Lee
Attorney

Attachments

- A. Mepco Combined Contribution Chart
- B. Factual and Legal Analysis for Mepco
- C. Factual and Legal Analysis for James Laurita
- D. Factual and Legal Analysis for Karen Hughes, Kevin O'Dell, Brian Osborn, Steven B. Polce, and Richard Usery.

PM 567 Combined Contributions

Name	Date	Amount	Agg	Elect	Employer	Occupation	Mepco Bates
ALTMIRE							
Q2 2009							
Laurita, James L Jr.	5/19/2009	2,500		G2010	Dana Mining Company	President	MEPCO_00000013
Q3 2010							
Laurita, James L Jr.	9/11/2010	500.00	3,000.00	G2010	Dana Mining Company	President	MEPCO_00000008
Post-Gen 2010							
Grimm, Eric	10/27/2010	2,000.00	2,000.00	G2010	Dana Mining	Coal Mining	MEPCO_00000292
Laurita, James L Jr.	10/27/2010	1,800.00	4,800.00	G2010	Dana Mining Company	President	MEPCO_00000008
Q3 2011							
Grimm, Cheryl L.	8/21/2011	1,500.00	1,500.00	P2012	Southwest Subway	Administrative Assistant	MEPCO_00000292
Grimm, Eric	8/21/2011	1,500.00	1,500.00	P2012	Dana Mining	Coal Mining Superintendent	MEPCO_00000292
Hughes, Karen	8/22/2011	1,500.00	1,500.00	P2012	MEPCO LLC	Corporate Treasurer	
Hughes, Mark	8/22/2011	1,500.00	1,500.00	P2012	Alpha Natural Resources	Coal Miner	
Laurita, James L Jr.	8/21/2011	2,500.00	2,500.00	P2012	MEPCO, LLC	President	MEPCO_00000008
Laurita, Rebecca	8/21/2011	2,500.00	2,500.00	P2012	N/A	Homemaker	MEPCO_00000008
Lindsay, Kent	8/22/2011	1,500.00	1,500.00	P2012	MEPCO LLC	CFO	MEPCO_00000292
Lindsay, Michelle	8/22/2011	1,500.00	1,500.00	P2012	N/A	Homemaker	MEPCO_00000292
O'Dell, Dawn	8/22/2011	1,500.00	1,500.00	P2012	Monongalia County Schools	Fitness Instructor	MEPCO_00000292
O'Dell, Kevin	8/22/2011	1,500.00	1,500.00	P2012	MEPCO LLC	VP of HR and Safety	MEPCO_00000292
Osborn, Brian M.	8/21/2011	1,500.00	1,500.00	P2012	MEPCO LLC	Engineering VP	MEPCO_00000292
Osborn, Lory B.	8/21/2011	1,500.00	1,500.00	P2012	West Virginia University	Administrative Assistant	MEPCO_00000109
Polce, Steven	8/24/2011	1,500.00	1,500.00	P2012	MEPCO	VP	MEPCO_00000292
Rodriguez Sanabia, Patricia	8/22/2011	1,500.00	1,500.00	P2012	Self	Property Manager	MEPCO_00000292
Stecher, Christopher	8/22/2011	1,500.00	1,500.00	P2012	MEPCO	Finance	MEPCO_00000292
Usery, Kathleen	8/21/2011	1,500.00	1,500.00	P2012	N/A	Homemaker	MEPCO_00000292
Usery, Richard R.	8/21/2011	1,500.00	1,500.00	P2012	MEPCO LLC	Executive	MEPCO_00000292
Q2 2012							
Grimm, Eric	4/12/2012	1,000.00	2,500.00	P2012	Dana Mining	Coal Mining Superintendent	
TOTAL		35,300.00					
CAPITO (HOUSE)							
YE 2009							
Laurita, James L.	12/10/2009	\$1,000.00	\$1,000.00	P2010	Mepco, Inc.	Executive	MEPCO_00000013
Q3 2010							
Grimm, Eric	9/26/2010	\$500.00	\$500.00	G2010	Dana Mining	Coal Mining	MEPCO_00000292
Hughes, Karen	9/27/2010	\$500.00	\$500.00	G2010	Businesswoman	MEPCO LLC	MEPCO_00000292
Laurita, James Mr.	9/27/2010	\$1,000.00	\$2,000.00	G2010	Mepco Inc	Executive	MEPCO_00000008

PM 567 Combined Contributions

Name	Date	Amount	Agg	Elect	Employer	Occupation	Mepco Bates
Lindsay, Kent A. Mr.	9/26/2010	\$500.00	\$500.00	G2010	MEPCO LLC	CFO	MEPCO_00000292
O'Dell, R. Kevin	9/26/2010	\$500.00	\$500.00	G2010	MEPCOLLC	Human Resources And Safety	MEPCO_00000292
Osborn, Brian M. Mr.	9/26/2010	\$500.00	\$500.00	G2010	MEPCO LLC	Engineer	
Stecher, Christopher J. Mr.	9/27/2010	\$500.00	\$500.00	G2010	MEPCO LLC	Finance	MEPCO_00000292
Usery, Richard R. Mr.	9/26/2010	\$500.00	\$500.00	G2010	MEPCO LLC	Executive	MEPCO_00000292
Q1 2012							
Laurita, James L Mr. Jr	3/15/2012	\$1,000.00	\$1,000.00	P2012	Mepco Inc	Executive	MEPCO_00000008
Q3 2012							
Laurita, James L Mr. Jr	7/13/2012	\$1,000.00	\$2,000.00	G2012	Mepco Inc	Executive	MEPCO_00000008
Laurita, James L Mr. Jr	9/12/2012	\$1,500.00	\$3,500.00	G2012	Mepco Inc	Executive	MEPCO_00000008
Laurita, Rebecca L Mrs.	9/12/2012	\$2,500.00	\$2,500.00	G2012	Housewife	Housewife	MEPCO_00000008
	TOTAL	\$11,500.00					
CAPITO (SENATE)							
Q2 2013							
GRIMM, CHERYL MS	4/18/2013	\$2,600.00	\$2,600.00	P, 2014	SOUTHWEST SUBWAY INC.	ADMINISTRATIVE ASSISTANT	MEPCO_00003757
GRIMM, ERIC MR	4/18/2013	\$2,600.00	\$2,600.00	P, 2014	DANA MINING	COAL MINING	MEPCO_00003757
HUGHES, KAREN MS	4/5/2013	\$2,600.00	\$2,600.00	P, 2014	MEPCO LLC	OFFICER	MEPCO_00003757
HUGHES, MARK MR	4/5/2013	\$2,600.00	\$2,600.00	P, 2014	ALPHA NATURAL RESOURCES	MINER	MEPCO_00003757
LAURITA, JAMES L MR JR	5/8/2013	\$2,600.00	\$2,600.00	P, 2014	MEPCO INC	EXECUTIVE	
LAURITA, JAMES L MR SR	4/18/2013	\$1,000.00	\$1,000.00	P, 2014	RETIRED	RETIRED	
LAURITA, REBECCA L MRS	5/8/2013	\$2,600.00	\$2,600.00	P, 2014	HOUSEWIFE	HOUSEWIFE	
O'DELL, DAWN MRS	4/8/2013	\$2,600.00	\$2,600.00	P, 2014	MON COUNTY	FITNESS INSTRUCTOR	MEPCO_00003757
O'DELL, KEVIN MR	4/8/2013	\$2,600.00	\$2,600.00	P, 2014	MEPCO	VICE PRESIDENT	MEPCO_00003757
OSBORN, BRIAN M MR	4/5/2013	\$2,600.00	\$2,600.00	P, 2014	MEPCO LLC	ENGINEER	MEPCO_00003757
OSBORN, LORY MRS	4/5/2013	\$2,600.00	\$2,600.00	P, 2014	WVU	ADMINISTRATOR	MEPCO_00003757
POLCE, STEVEN MR	4/18/2013	\$2,600.00	\$2,600.00	P, 2014	MEPCO INC.	VICE PRESIDENT OF WV OPERATIONS	MEPCO_00003757
USERY, KATHLEEN MS	4/18/2013	\$2,600.00	\$2,600.00	P, 2014	HOMEMAKER	HOMEMAKER	MEPCO_00003757
USERY, RICHARD R MR	4/18/2013	\$2,600.00	\$2,600.00	P, 2014	MEPCO LLC	EXECUTIVE	MEPCO_00003757

PM 567 Combined Contributions

Name	Date	Amount	Agg	Elect	Employer	Occupation	Mepco Bates
	TOTAL	\$34,800.00					
CRITZ							
Q3 2010							
Grimm, Eric	9/14/2010	\$500.00	\$500.00	G2010	American Coal Co	VP Operations	MEPCO_00000088 MEPCO_00000292
Hughes, Karen	9/14/2010	\$500.00	\$500.00	G2010	Mepco LLC	Coal Industry	MEPCO_00000088 MEPCO_00000292
Laurita, James Jr	9/14/2010	\$2,400.00	\$2,400.00	G2010	Dana Mining co	President	MEPCO_00000088
Lindsay, Kent A	9/14/2010	\$500.00	\$500.00	G2010	Mepco Inc	CFO	MEPCO_00000088 MEPCO_00000292
O'Dell, R Kevin	9/14/2010	\$500.00	\$500.00	G2010	Baker & Armistend	Lawyer	MEPCO_00000088 MEPCO_00000292
Osborn, Brian M	9/14/2010	\$500.00	\$500.00	G2010	Mepco	VP	MEPCO_00000088 MEPCO_00000292
Stecher, Christopher	9/14/2010	\$500.00	\$500.00	G2010	Mepco LLC	Finance	MEPCO_00000088 MEPCO_00000292
Usery, Richard	9/14/2010	\$500.00	\$500.00	G2010	Mepco LLC	Executive	MEPCO_00000088 MEPCO_00000292
Post-Gen 2010							
Grimm, Cheryl L.	10/29/2010	\$1,000.00	\$1,000.00	G2010	Southwest Subway	Office Manager	MEPCO_00000088 MEPCO_00000292
Grimm, Eric	10/29/2010	\$1,900.00	\$2,400.00	G2010	American Coal Co	VP Operations	MEPCO_00000088 MEPCO_00000292
Hughes, Karen	10/29/2010	\$1,900.00	\$2,400.00	G2010	Mepco LLC	Coal Industry	MEPCO_00000088 MEPCO_00000292
Hughes, Mark	10/29/2010	\$1,000.00	\$1,000.00	G2010	Mepco LLC	Coal Executive	MEPCO_00000088 MEPCO_00000292
Laurita, Rebecca L	10/29/2010	\$2,400.00	\$2,400.00	G2010	N/A	Homemaker	MEPCO_00000088
Lindsay, Kent A	10/29/2010	\$1,900.00	\$2,400.00	G2010	Mepco Inc	CFO	MEPCO_00000088 MEPCO_00000292
Lindsay, Michelle M	10/29/2010	\$1,000.00	\$1,000.00	G2010	N/A	Homemaker	MEPCO_00000088 MEPCO_00000292
O'Dell, Dawn	11/2/2010	\$1,000.00	\$1,000.00	G2010	Mon Co Board of Educ	Zumba Instructor	MEPCO_00000088 MEPCO_00000292
O'Dell, R Kevin	11/2/2010	\$1,900.00	\$2,400.00	G2010	Baker & Armistend	Lawyer	MEPCO_00000088 MEPCO_00000292
Osborn, Brian M	10/29/2010	\$1,900.00	\$2,400.00	G2010	Mepco	VP	MEPCO_00000088 MEPCO_00000292
Osborn, Lory B.	10/29/2010	\$1,000.00	\$1,000.00	G2010	WVU	Social Justice/Adm	MEPCO_00000088 MEPCO_00000292
Polce, Steven	10/29/2010	\$1,900.00	\$1,900.00	G2010	Mepco	VP	MEPCO_00000088 MEPCO_00000292
Polce, Victoria	10/29/2010	\$1,000.00	\$1,000.00	G2010	N/A	Homemaker	MEPCO_00000088 MEPCO_00000292
Rodriguez-Sanabia, Patricia	10/29/2010	\$1,000.00	\$1,000.00	G2010	Self Employed	Real Estate	MEPCO_00000088 MEPCO_00000292
Stecher, Christopher	10/29/2010	\$1,900.00	\$2,400.00	G2010	Mepco LLC	Finance	MEPCO_00000088 MEPCO_00000292
Usery, Kathleen	10/29/2010	\$1,000.00	\$1,000.00	G2010	N/A	Homemaker	MEPCO_00000088 MEPCO_00000292

PM 567 Combined Contributions

Name	Date	Amount	Agg	Elect	Employer	Occupation	Mepco Bates
Usery, Richard	10/29/2010	\$1,900.00	\$2,400.00	G2010	Mepco LLC	Executive	MEPCO_00000088 MEPCO_00000292
Year-End 2010							
Grimm, Cheryl L.	12/23/2010	\$1,000.00	\$1,000.00	P2012	Southwest Subway	Office Manager	MEPCO_00000088 MEPCO_00000292
Grimm, Eric	12/23/2010	\$1,000.00	\$1,000.00	P2012	American Coal Co	VP Operations	MEPCO_00000088 MEPCO_00000292
Hughes, Karen	12/16/2010	\$1,000.00	\$1,000.00	P2012	Mepco LLC	Coal Industry	MEPCO_00000088 MEPCO_00000292
Hughes, Mark	12/16/2010	\$1,000.00	\$1,000.00	P2012	Mepco LLC	Coal Executive	MEPCO_00000088 MEPCO_00000292
Laurita, Rebecca L	12/16/2010	\$2,400.00	\$2,400.00	P2012	N/A	Homemaker	MEPCO_00000088
Lindsay, Kent A	12/16/2010	\$1,000.00	\$1,000.00	P2012	Mepco Inc	CFO	MEPCO_00000088 MEPCO_00000292
Lindsay, Michelle M	12/16/2010	\$1,000.00	\$1,000.00	P2012	N/A	Homemaker	MEPCO_00000088 MEPCO_00000292
O'Dell, Dawn	12/16/2010	\$1,000.00	\$1,000.00	P2012	Mon Co Board of Educ	Zumba Instructor	MEPCO_00000088 MEPCO_00000292
O'Dell, Kevin	12/16/2010	\$1,000.00	\$1,000.00	P2012	MEPCO	UP HR	MEPCO_00000088 MEPCO_00000292
Osborn, Brian M	12/16/2010	\$1,000.00	\$1,000.00	P2012	Mepco	VP	MEPCO_00000088 MEPCO_00000292
Osborn, Lory B.	12/16/2010	\$1,000.00	\$1,000.00	P2012	WVU	Social Justice/Adm	MEPCO_00000088 MEPCO_00000292
Polce, Steven	12/31/2010	\$1,000.00	\$1,000.00	P2012	Mepco	VP	MEPCO_00000088 MEPCO_00000292
Polce, Victoria	12/31/2010	\$1,000.00	\$1,000.00	P2012	N/A	Homemaker	MEPCO_00000088 MEPCO_00000292
Rodriguez, Patricia	12/16/2010	\$1,000.00	\$1,000.00	P2012	Self Employed	Real Estate Professional	MEPCO_00000088
Stevhen, Christopher	12/16/2010	\$1,000.00	\$1,000.00	P2012	MEPCO	Accounting & Finance	
Usery, Kathleen	12/16/2010	\$1,000.00	\$1,000.00	P2012	N/A	Homemaker	MEPCO_00000088 MEPCO_00000292
Usery, Richard	12/16/2010	\$1,000.00	\$1,000.00	P2012	Mepco LLC	Executive	MEPCO_00000088 MEPCO_00000292
Q2 2011							
Grimm, Cheryl L.	6/30/2011	\$1,500.00	\$2,500.00	P2012	Southwest Subway	Office Manager	MEPCO_00000088 MEPCO_00000292
Grimm, Eric	6/30/2011	\$1,500.00	\$2,500.00	P2012	American Coal Co	VP Operations	MEPCO_00000088 MEPCO_00000292
Hughes, Karen	6/30/2011	\$1,500.00	\$2,500.00	P2012	Mepco LLC	Coal Industry	MEPCO_00000088
Hughes, Mark	6/30/2011	\$935.85	\$1,935.85	G2010	Mepco LLC	Coal Executive	MEPCO_00000088
Hughes, Mark	6/30/2011	\$564.15	\$2,500.00	P2012	Mepco LLC	Coal Executive	MEPCO_00000088
Laurita, James Jr	6/30/2011	\$2,500.00	\$2,500.00	P2012	Dana Mining co	President	MEPCO_00000088 MEPCO_00000292
O'Dell, Dawn	6/30/2011	\$1,500.00	\$2,500.00	P2012	Mon Co Board of Educ	Zumba Instructor	MEPCO_00000088 MEPCO_00000292 MEPCO_00000109
O'Dell, Kevin	6/30/2011	\$1,500.00	\$2,500.00	P2012	MEPCO	UP HR	MEPCO_00000088 MEPCO_00000292 MEPCO_00000109

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PM 567 Combined Contributions

Name	Date	Amount	Agg.	Elect	Employer	Occupation	Mepco Bates
Osborn, Brian M	6/30/2011	\$1,500.00	\$2,500.00	P2012	Mepco	VP	MEPCO_00000088 MEPCO_00000292
Osborn, Lory B.	6/30/2011	\$1,500.00	\$2,500.00	P2012	WVU	Social Justice/Adm	MEPCO_00000088 MEPCO_00000292
Polce, Steven	6/30/2011	\$1,500.00	\$2,500.00	P2012	Mepco	VP	MEPCO_00000088 MEPCO_00000292
Polce, Victoria	6/30/2011	\$1,500.00	\$2,500.00	P2012	N/A	Homemaker	MEPCO_00000088 MEPCO_00000292
Rodriguez, Patricia	6/30/2011	\$1,500.00	\$2,500.00	P2012	Self Employed	Real Estate Professional	MEPCO_00000088 MEPCO_00000292
Stecher, Christopher	6/30/2011	\$1,500.00	\$1,500.00	P2012	Mepco LLC	Finance	MEPCO_00000088 MEPCO_00000292
Usery, Kathleen	6/30/2011	\$1,500.00	\$2,500.00	P2012	N/A	Homemaker	MEPCO_00000088 MEPCO_00000292
Usery, Richard	6/30/2011	\$1,500.00	\$2,500.00	P2012	Mepco LLC	Executive	MEPCO_00000088 MEPCO_00000292
Q3 2011							
Lindsay, Kent A	7/10/2011	\$1,500.00	\$2,500.00	P2012	Mepco Inc	CFO	MEPCO_00000088 MEPCO_00000292
Lindsay, Michelle M	7/10/2011	\$1,500.00	\$2,500.00	P2012	N/A	Homemaker	MEPCO_00000088 MEPCO_00000292
Q3 2012							
Grimm, Cheryl L.	8/28/2012	\$2,500.00	\$5,000.00	G2012	Southwest Subway	Office Manager	MEPCO_00000292
Grimm, Eric	8/28/2012	\$2,500.00	\$5,000.00	G2012	American Coal Co	VP Operations	MEPCO_00000292
Laurita, James Jr	8/28/2012	\$2,500.00	\$5,000.00	G2012	Dana Mining Co	President	MEPCO_00000292
Laurita, Rebecca L	8/28/2012	\$2,500.00	\$4,900.00	G2012	N/A	Homemaker	MEPCO_00000292
TOTAL		\$86,400.00					
MANCHIN							
Pre-Pri 2010							
LAURITA, JAMES	8/5/2010	\$2,400.00	\$2,400.00	P, 2010	MEPCO, INC.	PRESIDENT	MEPCO_00000008
LAURITA, REBECCA L	8/5/2010	\$2,400.00	\$2,400.00	P, 2010	SELF-EMPLOYED	HOMEMAKER	MEPCO_00000008
Q3 2010							
GRIMM, ERIC S	8/17/2010	\$1,000.00	\$1,000.00	P, 2010	DANA MINING	EXECUTIVE	MEPCO_00000292
HUGHES, KAREN	8/17/2010	\$1,000.00	\$1,000.00	P, 2010	MEPCO	CORP. OFFICER	MEPCO_00000292
LAURITA, BEVERLY A	8/17/2010	\$2,400.00	\$4,800.00	P, 2010	SELF-EMPLOYED	HOMEMAKER	
LAURITA, BEVERLY A	8/17/2010	\$2,400.00	\$4,800.00	G, 2010	SELF-EMPLOYED	HOMEMAKER	
LAURITA, JAMES L	8/17/2010	\$2,400.00	\$4,800.00	G, 2010	MEPCO, INC.	PRESIDENT	MEPCO_00000008
LAURITA, REBECCA L	8/17/2010	\$2,400.00	\$4,800.00	G, 2010	SELF-EMPLOYED	HOMEMAKER	MEPCO_00000008
LINDSAY, KENT	8/17/2010	\$1,000.00	\$1,000.00	P, 2010	MEPCO	CFO	MEPCO_00000292
O'DELL, KEVIN	8/17/2010	\$1,000.00	\$1,000.00	P, 2010	MEPCO	HUMAN RESOURCES	MEPCO_00000292
OSBORN, BRIAN	8/17/2010	\$1,000.00	\$1,000.00	P, 2010	MEPCO	VP-ENGINEERING	MEPCO_00000292
POLCE, STEVEN B	8/17/2010	\$1,000.00	\$1,000.00	P, 2010	MEPCO	VICE PRESIDENT	MEPCO_00000292

PM 567 Combined Contributions

Name	Date	Amount	Agg.	Elect	Employer	Occupation	Mepco Bates
STECHEER, CHRISTOPHER	8/17/2010	\$1,000.00	\$1,000.00	P, 2010	MEPCO	ACCOUNTANT	MEPCO_00000292
Pre-Gen 2010							
LAURITA, JAMES L SR	10/4/2010	\$2,400.00	\$2,400.00	G, 2010	RETIRED	RETIRED	
Pre-Pr 2012							
GRIMM, CHERYL L	4/10/2012	\$2,500.00	\$2,500.00	P, 2012	SOUTHWEST SUBWAY	ADMINISTRATIVE ASSISTANT	MEPCO_00000292
GRIMM, ERIC S	4/10/2012	\$2,500.00	\$2,500.00	P, 2012	DANA MINING	EXECUTIVE	MEPCO_00000292
HUGHES, KAREN	4/10/2012	\$2,500.00	\$5,000.00	P, 2012	MEPCO	CORP OFFICER	
HUGHES, KAREN	4/10/2012	\$2,500.00	\$5,000.00	G, 2012	MEPCO	CORP OFFICER	
LAURITA, JAMES L JR	4/10/2012	\$2,500.00	\$5,000.00	P, 2012	MEPCO, INC.	PRESIDENT	MEPCO_00000008 MEPCO_00000292
LAURITA, JAMES L JR	4/10/2012	\$2,500.00	\$5,000.00	G, 2012	MEPCO, INC.	PRESIDENT	MEPCO_00000008 MEPCO_00000292
LAURITA, JAMES L SR	4/10/2012	\$2,500.00	\$2,500.00	P, 2012	RETIRED	RETIRED	MEPCO_00000292
LAURITA, REBECCA L	4/10/2012	\$2,500.00	\$5,000.00	P, 2012	SELF-EMPLOYED	HOMEMAKER	MEPCO_00000008 MEPCO_00000292
LAURITA, REBECCA L	4/10/2012	\$2,500.00	\$5,000.00	G, 2012	SELF-EMPLOYED	HOMEMAKER	MEPCO_00000008 MEPCO_00000292
LINDSAY, KENT	4/10/2012	\$2,500.00	\$5,000.00	P, 2012	MEPCO	CFO	MEPCO_00000292
LINDSAY, KENT	4/10/2012	\$2,500.00	\$5,000.00	G, 2012	MEPCO	CFO	
O'DELL, R KEVIN	4/10/2012	\$2,500.00	\$5,000.00	P, 2012	MEPCO, LLC	VICE PRESIDENT	MEPCO_00000292
O'DELL, R KEVIN	4/10/2012	\$2,500.00	\$5,000.00	G, 2012	MEPCO, LLC	VICE PRESIDENT	MEPCO_00000292
OSBORN, BRIAN	4/10/2012	\$2,500.00	\$5,000.00	P, 2012	MEPCO	VICE PRESIDENT ENGINEERING	MEPCO_00000292
OSBORN, BRIAN	4/10/2012	\$2,500.00	\$5,000.00	G, 2012	MEPCO	ENGINEERING	MEPCO_00000292
POLCE, STEVEN B	4/10/2012	\$2,500.00	\$5,000.00	P, 2012	MEPCO	VICE PRESIDENT	MEPCO_00000292
POLCE, STEVEN B	4/10/2012	\$2,500.00	\$5,000.00	G, 2012	MEPCO	VICE PRESIDENT	MEPCO_00000292
STECHEER, CHRISTOPHER	4/10/2012	\$2,500.00	\$5,000.00	P, 2012	MEPCO	ACCOUNTANT	MEPCO_00000292
STECHEER, CHRISTOPHER	4/10/2012	\$2,500.00	\$5,000.00	G, 2012	MEPCO	ACCOUNTANT	MEPCO_00000292
USERY, RICHARD R	4/10/2012	\$2,500.00	\$5,000.00	P, 2012	MEPCO, LLC	EXECUTIVE	MEPCO_00000292
USERY, RICHARD R	4/10/2012	\$2,500.00	\$5,000.00	G, 2012	MEPCO, LLC	EXECUTIVE	MEPCO_00000292
TOTAL		\$76,300.00					
MAYNARD							
Q2 2010							
Laurita, James L. Jr.	6/26/2010	\$2,400.00	\$2,400.00	G2010	Mepco LLC	President	MEPCO_00000008
Laurita, Rebecca L.	6/26/2010	\$2,400.00	\$2,400.00	G2010	N/A	Homemaker	MEPCO_00000008
Post-Gen 2010							
Grimm, Eric S. Mr.	10/20/2010	\$1,000.00	\$1,000.00	G2010	Dana Mining	Mining	MEPCO_00000292
Hughes, Karen	10/22/2010	\$1,000.00	\$1,000.00	G2010	Info Requested	Info Requested	MEPCO_00000292
Lindsay, Kent	10/22/2010	\$1,000.00	\$1,000.00	G2010	MepCo	CFO	MEPCO_00000292
O'Dell, Kevin	10/22/2010	\$1,000.00	\$1,000.00	G2010	MepCo	HR & Safety	MEPCO_00000292
Osborne, Brian	10/22/2010	\$1,000.00	\$1,000.00	G2010	MepCo	Vice President	MEPCO_00000292

PM 567 Combined Contributions

Name	Date	Amount	Agg	Elect	Employer	Occupation	Mepco Bates
Polce, Steven Mr.	10/20/2010	\$1,000.00	\$1,000.00	G2010	MEPCO	VP	MEPCO_00000292
Stecher, Christopher	10/22/2010	\$1,000.00	\$1,000.00	G2010	MepCo	Accountant	MEPCO_00000292
Usery, Richard R. Mr.	10/20/2010	\$1,000.00	\$1,000.00	G2010	MEPCO	Exec	MEPCO_00000292
	TOTAL	\$12,800.00					
MCKINLEY							
Q1 2010							
GRIMM, CHERYL L	3/11/2010	\$500.00	\$500.00	P2010	MEPCO LLC	BUSINESSWOMAN	MEPCO_00000292
HUGHES, MARK	3/11/2010	\$500.00	\$500.00	P2010	ALPHA NATURAL RESOURCES	COAL MINER	MEPCO_00000292
LAURITA, JAMES L	3/14/2010	\$2,400.00	\$2,400.00	P2010	MEPCO LLC	PRESIDENT	MEPCO_00000008
LINDSAY, MICHELLE M	3/11/2010	\$500.00	\$500.00	P2010	N/A	HOMEMAKER	
O'DELL, DAWN D	3/10/2010	\$500.00	\$500.00	P2010	MONONGALIA BOARD OF EDUCATION	INSTRUCTOR	MEPCO_00000292
OSBORN, LORY B	3/12/2010	\$500.00	\$500.00	P2010	WEST VIRGINIA UNIVERSITY	ADMINISTRATIVE ASSISTANT	MEPCO_00000292
POLCE, VICTORIA	3/9/2010	\$500.00	\$500.00	P2010	N/A	HOMEMAKER	MEPCO_00000292
RODRIGUEZ- SANABIA, PATRICIA	3/10/2010	\$500.00	\$500.00	P2010	SELF	REAL ESTATE AGENT	MEPCO_00000292
USERY, KATHLEEN	3/10/2010	\$500.00	\$500.00	P2010	N/A	HOMEMAKER	MEPCO_00000292
Q2 2010							
HUGHES, KAREN	6/28/2010	\$1,000.00	\$1,000.00	G2010	SELF	POLITICAL ADVISOR	MEPCO_00000292
HUGHES, MARK	6/28/2010	\$1,000.00	\$1,500.00	G2010	ALPHA NATURAL RESOURCES	COAL MINER	MEPCO_00000292
LINDSAY, KENT A	6/29/2010	\$1,000.00	\$1,000.00	G2010	MEPCO LLC	CHIEF FINANCIAL OFFICER	MEPCO_00000292
LINDSAY, MICHELLE M	6/29/2010	\$1,000.00	\$1,500.00	G2010	N/A	HOMEMAKER	MEPCO_00000292
O'DELL, DAWN D	6/28/2010	\$1,000.00	\$1,500.00	G2010	MONONGALIA BOARD OF EDUCATION	INSTRUCTOR	MEPCO_00000292
O'DELL, KEVIN	6/28/2010	\$1,000.00	\$1,000.00	G2010	MEPCO LLC	VICE PRESIDENT FOR HR AND SAFETY	MEPCO_00000292
OSBORN, BRIAN M	6/29/2010	\$1,000.00	\$1,000.00	G2010	MEPCO LLC	BUSINESSMAN	MEPCO_00000292
OSBORN, BRIAN M	6/29/2010	\$1,000.00	\$2,000.00	G2010	MEPCO LLC	BUSINESSMAN	MEPCO_00000292
POLCE, STEVEN	6/29/2010	\$1,000.00	\$1,000.00	G2010	MEPCO LLC	BUSINESSMAN	MEPCO_00000292
POLCE, VICTORIA	6/29/2010	\$1,000.00	\$1,500.00	G2010	N/A	HOMEMAKER	MEPCO_00000292
RODRIGUEZ- SANABIA, PATRICIA	6/28/2010	\$1,000.00	\$1,500.00	G2010	SELF	REAL ESTATE AGENT	
STECHEER, CHRISTOPHER	6/28/2010	\$1,000.00	\$1,000.00	G2010	MEPCO LLC	PRESIDENT	MEPCO_00000292
USERY, KATHLEEN	6/29/2010	\$1,000.00	\$1,500.00	G2010	N/A	HOMEMAKER	MEPCO_00000292
USERY, RICHARD	6/29/2010	\$1,000.00	\$1,000.00	G2010	MEPCO LLC	BUSINESSMAN	MEPCO_00000292

PM 567 Combined Contributions

Name	Date	Amount	Agg	Elect	Employer	Occupation	MEPCO Bates
Pre-Gen 2010							
GRIMM, ERIC S	10/13/2010	\$2,400.00	\$2,400.00	G2010	N/A	RETIRED	MEPCO_00000292
OSBORN, BRIAN M	10/13/2010	\$1,400.00	\$3,400.00	G2010	MEPCO LLC	BUSINESSMAN	MEPCO_00000292
Post-Gen 2010							
OSBORN, BRIAN M	10/13/2010	\$1,400.00	\$3,400.00	G2010	MEPCO LLC	BUSINESSMAN	
OSBORN, BRIAN M	10/13/2010	-\$1,000.00	\$2,400.00	G2010	MEPCO LLC	BUSINESSMAN	
OSBORN, LORI B	11/12/2010	\$1,000.00	\$1,000.00	G2010	WEST VIRGINIA UNIVERSITY	ADMINISTRATIVE ASSISTANT	MEPCO_00000292
Q1 2011							
Grimm, Cheryl	3/28/2011	\$2,500.00	\$2,500.00	P2012	Mepco Llc	Businesswoman	MEPCO_00000292
Grimm, Eric	3/28/2011	\$2,500.00	\$2,500.00	P2012	None	Retired	MEPCO_00000292
Hughes, Karen	3/31/2011	\$2,500.00	\$2,500.00	P2012	Self	Political Advisor	
Hughes, Mark	3/31/2011	\$2,500.00	\$2,500.00	P2012	Alpha Natural Resources	Coal Miner	
				O2012, General 2010			
Laurita, James	1/24/2011	\$2,400.00	\$2,400.00		Mepco Llc	President	MEPCO_00000008
Laurita, James	3/28/2011	\$2,500.00	\$4,900.00	P2012	Mepco Llc	President	MEPCO_00000008
				O2012, Primary 2010			
Laurita, Rebecca	1/24/2011	\$2,400.00	\$2,400.00		None	Homemaker	MEPCO_00000008
Laurita, Rebecca	3/28/2011	\$2,500.00	\$4,900.00	P2012	None	Homemaker	MEPCO_00000008
Lindsay, Kent	3/31/2011	\$2,500.00	\$2,500.00	P2012	Mepco Llc	Chief Financial Officer	MEPCO_00000292
Lindsay, Michelle	3/31/2011	\$2,500.00	\$2,500.00	P2012	None	Homemaker	MEPCO_00000292
					Monongalia Board of Education		
ODell, Dawn	3/31/2011	\$1,000.00	\$1,000.00	P2012		Instructor	
ODell, Dawn	3/31/2011	\$1,500.00	\$1,500.00	P2012	Information Requested	Information Requested	
ODell, Kevin	3/31/2011	\$2,500.00	\$2,500.00	P2012	Information Requested	Information Requested	
Osborn, Brian	3/28/2011	\$2,500.00	\$2,500.00	P2012	Mepco Llc	Vice President	MEPCO_00000292 MEPCO_00000109
Osborn, Lory	3/28/2011	\$2,500.00	\$3,500.00	P2012	West Virginia University	Administrative Assistant	MEPCO_00000292 MEPCO_00000109
Polce, Steven	3/28/2011	\$2,500.00	\$2,500.00	P2012	Mepco Llc	Businessman	MEPCO_00000292
Polce, Victoria	3/28/2011	\$2,500.00	\$2,500.00	P2012	None	Homemaker	MEPCO_00000292
Rodriguez-Sanabia, Patricia	3/31/2011	\$2,500.00	\$2,500.00	P2012	Self	Real Estate Agent	MEPCO_00000292
Stecher, Christopher	3/31/2011	\$2,500.00	\$2,500.00	P2012	Mepco Llc	President	MEPCO_00000292
Usery, Kathleen	3/28/2011	\$2,500.00	\$2,500.00	P2012	None	Homemaker	MEPCO_00000292
Usery, Richard	3/28/2011	\$2,500.00	\$2,500.00	P2012	Mepco Llc	Businessman	MEPCO_00000292
Q2 2011							
Lindsay, Kent	4/23/2011	\$2,500.00	\$5,000.00	G2012	Mepco Llc	Chief Financial Officer	
Q1 2013							
GRIMM, CHERYL L. MRS.	3/31/2013	\$2,600.00	\$2,600.00	P2014	NONE	RETIRED	MEPCO_00003757

PM 567 Combined Contributions

Name	Date	Amount	Agg	Elect	Employer	Occupation	Meeco Bates
GRIMM, ERIC S. MR.	3/31/2013	\$2,600.00	\$2,600.00	P2014	MEPCO LLC	EXECUTIVE	MEPCO_00003757
HUGHES, KAREN	3/31/2013	\$2,600.00	\$2,600.00	P2014	MEPCO, LLC	CORP. SECRETARY TREASURER	MEPCO_00003757
HUGHES, MARK	3/31/2013	\$2,600.00	\$2,600.00	P2014	ALPHA NATURAL RESOURCES	COAL MINER	MEPCO_00003757
LAURITA, JR., JAMES L. MR.	3/31/2013	\$2,600.00	\$2,600.00	P2014	MEPCO LLC	PRESIDENT	MEPCO_00000008
LAURITA, REBECCA L. MRS.	3/31/2013	\$2,600.00	\$2,600.00	P2014	NONE	HOMEMAKER	MEPCO_00000008
LAURITA, SR., JAMES L. MR.	3/31/2013	\$2,000.00	\$2,000.00	P2014	NONE	RETIRED	
O'DELL, DAWN	3/31/2013	\$2,600.00	\$2,600.00	P2014	MONONGALIA BOARD OF EDUCATION	INSTRUCTOR	MEPCO_00003757
O'DELL, KEVIN	3/31/2013	\$2,600.00	\$2,600.00	P2014	MEPCO LLC	VICE PRESIDENT	MEPCO_00003757
OSBORN, BRIAN	3/31/2013	\$2,600.00	\$2,600.00	P2014	MEPCO LLC	VICE PRESIDENT	MEPCO_00003757
OSBORN, LORY	3/31/2013	\$2,600.00	\$2,600.00	P2014	WEST VIRGINIA UNIVERSITY	ADMINISTRATIVE ASSISTANT	MEPCO_00003757
POLCE, STEVEN B. MR.	3/31/2013	\$2,600.00	\$2,600.00	P2014	MEPCO LLC	EXECUTIVE	MEPCO_00003757
USERY, KATHLEEN MRS.	3/31/2013	\$2,600.00	\$2,600.00	P2014	NONE	HOMEMAKER	MEPCO_00003757
USERY, RICHARD R. MR.	3/31/2013	\$2,600.00	\$2,600.00	P2014	MEPCO LLC	BUSINESSMAN	MEPCO_00003757
	TOTAL	\$113,700.00					
MINEAR							
Q1 2010							
Grimm, Cheryl L	3/17/2010	\$500.00	\$500.00	P2010	Subway	Office Manager	MEPCO_00000292
Hughes, Mark	3/17/2010	\$500.00	\$500.00	P2010	Alpha Natural Resources	Coal Miner	MEPCO_00000292
Laurita, James L	3/17/2010	\$2,000.00	\$2,000.00	P2010	MEPCO	Executive	MEPCO_00000008
Lindsay, Michelle M.	3/17/2010	\$500.00	\$500.00	P2010	N/A	Homemaker	MEPCO_00000292
O'Dell, Kevin R	3/17/2010	\$500.00	\$500.00	P2010	N/A	Fitness Instructor	MEPCO_00000292
Osborn, Lory B	3/17/2010	\$500.00	\$500.00	P2010	WVU - Social Justice	Administrative Assistant	MEPCO_00000292
Polce, Victoria	3/17/2010	\$500.00	\$500.00	P2010	N/A	Homemaker	MEPCO_00000292
Rodriguez-Sanadla, Patricia	3/17/2010	\$500.00	\$500.00	P2010	N/A	Real Estate Agent	MEPCO_00000292
Usery, Kathleen	3/17/2010	\$500.00	\$500.00	P2010	N/A	Homemaker	MEPCO_00000292
	TOTAL	\$6,000.00					
MURPHY							
Q3 2010							
Laurita, James L. Mr. Jr.	9/16/2010	\$250.00	\$450.00	G2010	Laurel Aggregates	Vice President	MEPCO_00000008
Q3 2010							
Grimm, Eric S. Mr.	8/26/2011	\$1,000.00	\$1,000.00	P2012	MEPCO	Coal mining	

PM 567 Combined Contributions

Name	Date	Amount	Agg.	Elect	Employer	Occupation	Mepco Bates
Laurita, James L. Mr. Jr.	9/9/2011	\$2,500.00	\$2,500.00	P2012	Laurel Aggregates	Vice President	
	TOTAL	\$3,750.00					
OLIVERIO							
Q1 2010							
Grimm, Cheryl	3/11/2010	\$2,400.00	\$2,400.00	P2010	Southwest Subway	Office Manager	MEPCO_00000292
Grimm, Eric S.	3/11/2010	\$2,400.00	\$2,400.00	P2010	Dana Mining	Coal Miner	MEPCO_00000292
Hughes, Karen	3/15/2010	\$2,400.00	\$2,400.00	P2010	MEPCO, LLC	Office Manager	MEPCO_00000292
Hughes, Mark	3/15/2010	\$2,400.00	\$2,400.00	P2010	Alpha Nautral Resources	Coal Miner	MEPCO_00000292
Laurita, Beverly	3/2/2010	\$1,000.00	\$1,000.00	P2010	Information Requested	retired	
Laurita, James L. Jr.	3/15/2010	\$2,400.00	\$2,400.00	P2010	Mepco	President	MEPCO_00000008
Laurita, Rebecca L.	3/14/2010	\$2,400.00	\$2,400.00	P2010	Information Requested	Homemaker	MEPCO_00000008
Lindsay, Kent A.	3/11/2010	\$2,400.00	\$2,400.00	P2010	Mepco	Chief Financial Officer	MEPCO_00000292
Lindsay, Michelle M.	3/11/2010	\$2,400.00	\$2,400.00	P2010	None	Homemaker	MEPCO_00000292
O'Dell, Dawn	3/15/2010	\$2,400.00	\$2,400.00	P2010	Mon County Schools	Zumba Instructor	MEPCO_00000292
O'Dell, Kevin	3/15/2010	\$2,400.00	\$2,400.00	P2010	MEPCO	Human Resources	MEPCO_00000292
Osborn, Brian	3/12/2010	\$2,400.00	\$2,400.00	P2010	Mepco	Vice President-Engineering	MEPCO_00000292
Osborn, Lory	3/12/2010	\$2,400.00	\$2,400.00	P2010	WVU	Administrative Assistant	MEPCO_00000292
Polce, Steve	3/12/2010	\$2,400.00	\$2,400.00	P2010	Mepco	VP	MEPCO_00000292
Polce, Victoria	3/9/2010	\$2,400.00	\$2,400.00	P2010	None	Homemaker	MEPCO_00000292
Rodriguez-Sanabia, Patricia	3/15/2010	\$2,400.00	\$2,400.00	P2010	Self	Real Estate Agent	MEPCO_00000292
Stecher, Christopher	3/15/2010	\$2,400.00	\$2,400.00	P2010	Finance	MEPCO LLC	MEPCO_00000292
Usery, Kathleen	3/10/2010	\$2,400.00	\$2,400.00	P2010	None	Homemaker	MEPCO_00000292
Usery, Richard R.	3/10/2010	\$2,400.00	\$2,400.00	P2010	Mepco	Executive	MEPCO_00000292
Q2 2010							
Hughes, Karen	6/30/2010	\$1,000.00	\$3,400.00	G2010	MEPCO, LLC	Office Manager	MEPCO_00000292
Hughes, Mark	6/30/2010	\$1,000.00	\$3,400.00	G2010	Alpha Nautral Resources	Coal Miner	MEPCO_00000292
Laurita, Beverly	5/3/2010	\$1,400.00	\$4,800.00	P2010	Information Requested	retired	
Laurita, Beverly	6/9/2010	\$2,400.00	\$4,800.00	G2010	Information Requested	retired	
Laurita, James L. Jr.	6/28/2010	\$2,400.00	\$4,800.00	G2010	Mepco	President	MEPCO_00000008
Laurita, James L. Sr.	5/3/2010	\$2,400.00	\$4,800.00	P2010	None	Retired	
Laurita, James L. Sr.	6/9/2010	\$2,400.00	\$4,800.00	G2010	None	Retired	

PM 567 Combined Contributions

Name	Date	Amount	Agg	Elect	Employer	Occupation	MEPCO Bates
Laurita, Rebecca L.	6/28/2010	\$2,400.00	\$4,800.00	G2010	Information Requested	Homemaker	MEPCO_00000008
Lindsay, Kent A.	6/28/2010	\$1,000.00	\$3,400.00	G2010	Mepco	Chief Financial Officer	MEPCO_00000292
Lindsay, Michelle M.	6/28/2010	\$1,000.00	\$3,400.00	G2010	None	Homemaker	MEPCO_00000292
O'Dell, Dawn	6/30/2010	\$1,000.00	\$3,400.00	G2010	Mon County Schools	Zumba Instructor	MEPCO_00000292
O'Dell, Kevin	6/30/2010	\$1,000.00	\$3,400.00	G2010	MEPCO	Human Resources	MEPCO_00000292
Osborn, Brian	6/28/2010	\$1,000.00	\$3,400.00	G2010	Mepco	Vice President-Engineering	MEPCO_00000292
Osborn, Lory	6/28/2010	\$1,000.00	\$3,400.00	G2010	WVU	Administrative Assistant	MEPCO_00000292
Polce, Steve	6/28/2010	\$1,000.00	\$3,400.00	G2010	Mepco	VP	MEPCO_00000292
Polce, Victoria	6/28/2010	\$1,000.00	\$3,400.00	G2010	None	Homemaker	MEPCO_00000292
Rodriguez-Sanabia, Patricia	6/30/2010	\$1,000.00	\$3,400.00	G2010	Self	Real Estate Agent	MEPCO_00000292
Stecher, Christopher	6/30/2010	\$1,000.00	\$3,400.00	G2010	Finance	MEPCO LLC	MEPCO_00000292
Usery, Kathleen	6/28/2010	\$1,000.00	\$3,400.00	G2010	None	Homemaker	MEPCO_00000292
Usery, Richard R.	6/28/2010	\$1,000.00	\$3,400.00	G2010	Mepco	Executive	MEPCO_00000292
Q3 2010							
Grimm, Eric S.	7/7/2010	\$1,400.00	\$3,800.00	G2010	Dana Mining	Coal Miner	
Pre-Gen 2010							
Lindsay, Kent A.	10/12/2010	\$1,400.00	\$4,800.00	G2010	Mepco	Chief Financial Officer	MEPCO_00000292
Lindsay, Michelle M.	10/12/2010	\$500.00	\$3,900.00	G2010	None	Homemaker	MEPCO_00000292
Polce, Steve	10/8/2010	\$1,400.00	\$4,800.00	G2010	Mepco	VP	MEPCO_00000292
Polce, Victoria	10/8/2010	\$500.00	\$3,900.00	G2010	None	Homemaker	MEPCO_00000292
Usery, Kathleen	10/12/2010	\$500.00	\$3,900.00	G2010	None	Homemaker	MEPCO_00000292
Usery, Richard R.	10/8/2010	\$1,400.00	\$4,800.00	G2010	Mepco	Executive	MEPCO_00000292
Post-Gen 2010							
Hughes, Karen	10/9/2010	\$1,400.00	\$4,800.00	G2010	MEPCO, LLC	Office Manager	MEPCO_00000292
Hughes, Mark	10/9/2010	\$500.00	\$3,900.00	G2010	Alpha Nautral Resources	Coal Miner	MEPCO_00000292
O'Dell, Dawn	10/9/2010	\$500.00	\$3,900.00	G2010	Mon County Schools	Zumba Instructor	MEPCO_00000292
O'Dell, Kevin	10/9/2010	\$1,400.00	\$4,800.00	G2010	MEPCO	Human Resources	MEPCO_00000292
Rodriguez-Sanabia, Patricia	10/9/2010	\$500.00	\$3,900.00	G2010	Self	Real Estate Agent	MEPCO_00000292
Stecher, Christopher	10/9/2010	\$1,400.00	\$4,800.00	G2010	Finance	MEPCO LLC	MEPCO_00000292
	TOTAL	\$24,400.00					
SMITH							
YE 2011							
LAURITA, JAMES	12/21/2011	\$2,500.00	\$2,500.00	P, 2012	MEPCO, LLC	CEO	MEPCO_00000008
LAURITA, REBECCA	12/21/2011	\$2,500.00	\$2,500.00	P, 2012	HOMEMAKER	HOMEMAKER	MEPCO_00000008
Pre-Pri 2012							

PM 567 Combined Contributions

Name	Date	Amount	Agg	Elect	Employer	Occupation	Mepco Bates
GRIMM, ERIC	4/3/2012	\$2,500.00	\$2,500.00	P, 2012	DANA MINING	COAL MINING	
Q2 2012							
GRIMM, CHERYL L	6/29/2012	\$2,500.00	\$2,500.00	G, 2012	NA	NA	
GRIMM, ERIC S MR	6/29/2012	\$2,500.00	\$5,000.00	G, 2012	DANA MINING	VICE PRESIDENT	
LAURITA, JAMES MR	6/26/2012	\$2,500.00	\$5,000.00	G, 2012	MEPCO, LLC	CEO	MEPCO_00000008
LAURITA, REBECCA MRS	6/26/2012	\$2,500.00	\$5,000.00	G, 2012	HOMEMAKER	HOMEMAKER	MEPCO_00000008
	TOTAL	\$17,500.00					
SNUFFER							
Q2 2012							
Laurita, James	5/21/2012	\$2,500.00	\$2,500.00	G2012	Mepco, Inc.	Executive	MEPCO_00000008
Laurita, Rebecca	5/21/2012	\$2,500.00	\$2,500.00	G2012	Information Requested	Information Requested	MEPCO_00000008
Q3 2012							
GRIMM, ERIC S	9/21/2012	\$1,000.00	\$1,000.00	G2012	MEPCO, LLC	VICE PRESIDENT	MEPCO_00000292
HUGHES, KAREN	9/20/2012	\$1,193.52	\$1,193.52	G2012	MEPCO, LLC	EXECUTIVE	
HUGHES, KAREN	9/21/2012	\$1,000.00	\$2,193.52	G2012	MEPCO, LLC	EXECUTIVE	
LAURITA, JAMES	8/8/2012	\$2,500.00	\$5,000.00	G2012	MEPCO, INC.	EXECUTIVE	
LAURITA, JAMES	8/8/2012	-\$2,500.00	\$5,000.00	G2012	MEPCO, INC.	EXECUTIVE	
LAURITA, JAMES	8/8/2012	\$2,500.00	\$5,000.00	P2012	MEPCO, INC.	EXECUTIVE	
LAURITA, REBECCA	8/8/2012	\$2,500.00	\$5,000.00	G2012	INFORMATION REQUESTED	INFORMATION REQUESTED	MEPCO_00000008
LAURITA, REBECCA	8/8/2012	-\$2,500.00	\$5,000.00	G2012	INFORMATION REQUESTED	INFORMATION REQUESTED	
LAURITA, REBECCA	8/8/2012	\$2,500.00	\$5,000.00	P2012	INFORMATION REQUESTED	INFORMATION REQUESTED	MEPCO_00000008
LINDSAY, KENT	9/21/2012	\$1,000.00	\$1,000.00	G2012	MEPCO, LLC	CFO	MEPCO_00000292
O'DELL, R. KEVIN	9/30/2012	\$1,000.00	\$1,000.00	G2012	MEPCO	VICE PRESIDENT	MEPCO_00000292
OSBORN, BRIAN M	9/21/2012	\$1,000.00	\$1,000.00	G2012	MEPCO, LLC	VICE PRESIDENT	MEPCO_00000292
POLCE, STEVEN B	9/21/2012	\$1,000.00	\$1,000.00	G2012	MEPCO, LLC	VICE PRESIDENT	MEPCO_00000292
STECHEER, CHRISTOPHER J	9/21/2012	\$1,000.00	\$1,000.00	G2012	MEPCO, LLC	FINANCE	MEPCO_00000292
USERY, RICHARD R	9/21/2012	\$1,000.00	\$1,000.00	G2012	MEPCO, LLC	EXECUTIVE	MEPCO_00000292
	TOTAL	\$19,193.52					
GRIFFITH							
Q1 2012							
Laurita, James L. Jr.	2/22/2012	\$1,000.00	\$1,000.00	P2012	Mepco LLC	President	MEPCO_00000008
	TOTAL	\$1,000.00					
KEADLE							
YE 2011							
Laurita, James	12/2/2011	\$2,500.00	\$2,500.00	P2012	Mepco LLC	President	MEPCO_00000008
Q3 2012							
Laurita, James	7/11/2012	\$2,500.00	\$5,000.00	R2012, Runoff	Mepco LLC	President	MEPCO_00000008
	TOTAL	\$5,000.00					
KELLY							
YE 2011							

PM 567 Combined Contributions

Name:	Date	Amount	Agg.	Elect.	Employer	Occupation	Mepco/Bates
Laurita, James	10/25/2011	\$1,000.00	\$1,000.00	P2012	MEPCO LLC	President	MEPCO_00000008
	TOTAL	\$1,000.00					
MCCONNELL							
YE 2012							
LAURITA, JAMES	10/26/2012	\$2,500.00	\$2,500.00	P, 2014	MEPCO, LLC	CEO	MEPCO_00000008
	TOTAL	\$2,500.00					
ROMNEY Victory Inc.							
LAURITA, JAMES L. MR. JR.	7/23/2012	\$50,000.00	\$50,000.00		MEPCO, L.L.C.	PRESIDENT	MEPCO_00000008
	TOTAL	\$50,000.00					
NRCC							
M-4 2011							
LAURITA, JAMES L. MR. JR	3/23/2011	\$30,400.00	\$30,400.00		INFORMATION REQUESTED PER BEST EFFORTS	INFORMATION REQUESTED PER BEST EFFORTS	MEPCO_00000008
M-7 2012							
LAURITA, JAMES L. MR. JR	6/26/2012	\$10,000.00	\$10,000.00		MEPCO	PRESIDENT & CEO	MEPCO_00000008
	TOTAL	\$40,400.00					
WV Repub. Party							
Pre-Gen 2010							
Laurita, James L Jr	10/6/2010	\$10,000.00	\$10,000.00		Medco LLC	CEO	MEPCO_00000008
M-3 2011							
Laurita, James L. Mr.	3/24/2011	\$10,000.00	\$10,000.00		MEPCO, LLC	CEO	MEPCO_00000008
M-1 2012							
Laurita, James L. Mr. Jr.	1/28/2012	\$10,000.00	\$10,000.00		MEPCO, LLC	CEO	MEPCO_00000008
	TOTAL	\$30,000.00					

GRAND TOTAL	\$631,543.52
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1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 **RESPONDENT:** Mepco Holdings, LLC
6 Mepco, LLC

MUR _____

7
8 **I. INTRODUCTION**

9 Mepco Holdings, LLC ("Mepco") and its parent company, Longview Intermediate
10 Holdings C, LLC ("Longview") filed a *sua sponte* submission ("Submission"), notifying the
11 Commission that James Laurita, the former Mepco Chief Executive Officer ("CEO"), caused
12 Mepco to reimburse him and eight other executives for federal and state contributions made in
13 the names of the executives and their spouses.¹

14 Records produced by Mepco and disclosure reports filed with the Commission indicate
15 that between 2010 and 2013, a number of Mepco executives were reimbursed for federal
16 political contributions in an amount potentially exceeding \$600,000. In addition, the evidence
17 suggests that those executives were aware that such reimbursements were illegal and acted
18 knowingly and willfully. Accordingly, the Commission finds reason to believe that Mepco
19 Holdings, LLC and Mepco, LLC knowingly and willfully violated 52 U.S.C. § 30122 (formerly
20 2 U.S.C. § 441f) by making contributions in the name of another. Further, the Commission finds
21 reason to believe that Mepco Holdings, LLC and Mepco, LLC knowingly and willfully violated
22 52 U.S.C. § 30116(a)(1) (formerly 2 U.S.C. § 441a(a)(1)) by making excessive contributions.

¹ Submission of Mepco Holdings, LLC and Longview Intermediate Holdings C, LLC at 4 (Nov. 17, 2013) ("Submission").

II. FACTUAL BACKGROUND

A. Respondents

Mepco is a holding company that owns and operates numerous coal-related businesses, including Mepco, LLC.² Mepco has been managed by three generations of the Laurita family, including James Laurita, Jr., who was the President and Chief Executive Officer of both Mepco and Mepco, LLC, until he resigned in November 2013.³ Mepco is a subsidiary of Longview, which owns another subsidiary, Longview Power, LLC (“Longview Power”), which operates a coal-fired power facility.⁴ Mepco provides Longview Power with coal to operate its power facility.⁵ Longview owns a 92.2% interest in Mepco with Laurita owning the remaining 7.8%.⁶ Mepco and Longview filed petitions for Chapter 11 bankruptcy petition in August 2013.⁷ Neither Mepco nor any of its subsidiaries, which are also LLCs, elected to be taxed as corporations under the Internal Revenue Code.

The other executives who received reimbursements for contributions include five individuals who are currently employed by Mepco: (1) Karen Hughes, Secretary and Treasurer, Mepco; (2) R. Kevin O’Dell, Vice President of Human Resources and Safety, Mepco, LLC; (3) Brian M. Osborn, Vice President of Engineering, Mepco, LLC; (4) Steven B. Polce, Vice President of Dana Mining for West Virginia, a subsidiary of Mepco; and (5) Richard R. Usery, Vice President — Coal Sales and Surface Operations, Mepco, LLC.⁸ Three other individuals,

² Submission at 2.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ See Voluntary Petition, *In re: Mepco Holdings, LLC*, Case No. 13:12219 (D. Del. Aug. 30, 2013) at 25 (“Mepco Bankr. Pet.”).

⁷ *Id.*; Submission at 2. The ultimate parent entity of Longview and Mepco is GenPower Holdings GP (“GenPower GP”), which is not a debtor in the bankruptcy proceeding. See Mepco Bankr. Pet. at 25.

⁸ Submission at 4.

1 who no longer work for Mepco, also appeared to have participated in the reimbursement
2 program: Eric Grimm, the former Vice President of Dana Mining;⁹ Kent Lindsay, the former
3 Chief Financial Officer ("CFO") of Mepco and Mepco, LLC; and Christopher Stecher, the
4 former CFO and Manager of Accounting of Mepco.¹⁰

5 **B. Mepco's Reimbursement of Political Contributions to Federal Candidates**
6 **from 2010 through 2013**
7

8 According to the Submission, after the 2008 election, Mepco's officers decided that the
9 company should become more politically active by making contributions to federal and state
10 candidates who were likely to support the coal industry.¹¹ On March 4, 2010, Laurita requested
11 that eight Mepco officers, who included Karen Hughes, Kent Lindsay, Rick Usery, Eric Grimm,
12 Steve Polce, Kevin O'Dell, Brian Osborn, and Christopher Stecher, attend a meeting the next day
13 to discuss elections and support for particular candidates.¹² As a follow-up to the March 5
14 meeting, Laurita sent another e-mail asking those officers that they make contributions in
15 specific dollar amounts to four candidates, three of whom were federal candidates running for
16 seats in the House of Representatives: Mike Oliverio, David McKinley, and Sarah Minear.
17 Laurita also suggested contribution amounts.¹³ At Laurita's request, Mepco began reimbursing
18 executives for political contributions on March 9, 2010.¹⁴ According to Mepco LLC's payroll
19 records, on that date, Osborn, Hughes, Polce, O'Dell, Usery, Grimm, Stecher, and Lindsay all

⁹ *Id.* Grimm left Mepco on November 29, 2013. Supplemental Submission of Mepco (Mar. 18, 2014) ("Supp. Submission") at 3.

¹⁰ Stecher served as CFO from February 2006 to July 2009, and Lindsay served as CFO from July 2009 until October 2012. *Id.*

¹¹ See Supp. Submission at 3.

¹² E-mail from James Laurita to Karen Hughes, *et al.* (Mar. 4, 2010 12:05 pm) (Mepco_00000281).

¹³ *Id.*

¹⁴ See Supp. Submission at 3.

1 received a \$20,000 bonus.¹⁵ Based on an e-mail string from March 2010, it appears that Mepco
2 awarded these bonuses so that officers could make political contributions to state and federal
3 candidates. On March 9, 2010, O'Dell forwarded Laurita's e-mails to his spouse, Dawn O'Dell,
4 and instructed her to make contributions per Laurita's request and that she should use funds from
5 an after-tax deposit of \$11,456, which appears to correspond to the pre-tax \$20,000 March 9
6 bonus from Mepco, LLC.¹⁶

7 From March 2010 through March 2013, Mepco continued to provide its executives with
8 bonus payments to be used for political contributions.¹⁷ As the Submission and Commission
9 disclosure reports indicate, Laurita and the eight other Mepco officers involved in the
10 reimbursement program contributed over \$600,000 to federal candidates between 2010 and
11 2013, and as further described below, most if not all of these contributions appear to have been
12 reimbursed.¹⁸

13 Table 1. — Reimbursed Contributions Between 2010 and 2013 by Recipient

Committee	Amount
Citizens for Altmire	\$35,300.00
Capito for Congress	\$11,500.00
Capito for West Virginia	\$34,800.00
Mark Critz for Congress	\$86,400.00
Manchin for West Virginia	\$76,300.00
Spike Maynard for Congress	\$12,800.00
McKinley for Congress	\$113,700.00
Minear for Congress	\$6,000.00
Tim Murphy for Congress	\$3,750.00
Oliverio for Congress	\$84,400.00

¹⁵ See 2010 Mepco LLC Payroll Records.

¹⁶ E-mail from Kevin O'Dell to Dawn O'Dell (Mar. 9, 2010 2:38 pm) (Mepco_00000279).

¹⁷ See Supp. Submission at 3; Mepco Combined Contribution Chart, Attach. A. We note that Laurita made two contributions in 2009 to Citizens for Altmire (\$2,500) and Capito for Congress (\$1,000) and was reimbursed for these contributions in late 2012, but the company-wide scheme involving reimbursement of the contributions of other executives apparently did not begin until March 2010.

¹⁸ We use "reimburse" generally to describe both advances and subsequent repayments for contributions.

Tom Smith for Senate	\$17,500.00
Snuffer for Congress	\$19,193.52
Griffith for Congress	\$1,000.00
Keadle for Congress	\$5,000.00
Mike Kelly for Congress	\$1,000.00
McConnell for Senate 2014	\$2,500.00
Romney Victory, Inc.	\$50,000.00
NRCC	\$40,400.00
West Virginia Republican Party	\$30,000.00
Total:	\$631,543.52

1
2 Mepco states that the manner in which it reimbursed its executives varied.¹⁹ Laurita
3 would at times identify candidates friendly to the coal industry and request or “instruct,” either
4 orally or in writing, that company officers, along with their spouses, make contributions to those
5 candidates.²⁰ In other instances, executives made candidate recommendations to Laurita.²¹
6 Executives stated that on occasion they would discuss political candidates at monthly
7 management meetings or in other group settings.²²

8 When not personally soliciting contributions, Laurita frequently relied on either Hughes,
9 who handled administrative tasks related to Mepco’s finances and payroll, or his assistant,
10 Suzanne Crane (née Likins), to convey his requests.²³ Hughes and Crane communicated with
11 executives both orally and in writing, indicating which candidates should receive contributions

¹⁹ Supp. Submission at 4.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*; see also E-mail from James Laurita to Suzanne Crane (Mar. 6, 2013 1:42 pm) (MEPCO_00000071) (requesting that each officer and his or her spouse contribute \$2,500); E-mail from James Laurita to Karen Hughes (Sept. 13, 2012 4:50 am) (MEPCO_00000982-983) (“Karen, I forgot about this fund raiser. Will need \$1,000 from each officer.”); E-mail from James Laurita to Suzanne Crane (Mar. 6, 2013 1:46 pm) (MEPCO_00000792) (“Ask the officers to contribute \$2,500 x 2 here too”); E-mail from Karen Hughes to Brian Osborn and Eric Grimm (Sept. 28, 2010) (MEPCO_00000197) (“Are you making a donation as suggested so I can add it to your reimbursement?”).

1 and in what amount.²⁴ Often accompanying their requests were contribution forms for specific
2 candidates or fundraising events.²⁵

3 Once the officers received the requests, they or their spouses would make contributions
4 online or by check.²⁶ Typically, the executives provided checks to Hughes instead of submitting
5 them directly to a campaign or candidate.²⁷

6 At Laurita's request, Hughes and staff in the payroll department would arrange for
7 officers to receive reimbursement through "bonuses" paid through Mepco's payroll system.²⁸
8 Hughes maintained extensive charts that reflected contributions made by each executive and the
9 payment of reimbursements.²⁹ Specifically, payroll records indicate that funds used for
10 reimbursements came from Mepco's wholly owned subsidiary, Mepco LLC.³⁰ The method and
11 amounts of the reimbursements varied, and the payments were not made at regular intervals.³¹
12 The timing of the "bonuses" also varied in that executives received compensation for
13 contributions either before or after making them.³² Sometimes, reimbursements were tied to

²⁴ Supp. Submission at 4; *see also* E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:07 pm) (MEPCO_00003986) ("By the end of the day tomorrow (Thursday), please provide your check in the amount of \$500 payable to 'Capito for Congress.'").

²⁵ Supp. Submission at 4; *see also* E-mail from Suzanne Likins to Eric Grimm, *et al.* (Sept. 19, 2012 3:01 pm) (MEPCO_00005220-221).

²⁶ Supp. Submission at 5.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Supp. Submission at 4; *see also* E-mail from Karen Hughes to Rodney Bolyard (Nov. 16, 2012 1:05 pm), MEPCO_00000131-132 (reflecting candidate contributions and payment of reimbursements from 2010-2012).

³⁰ *See* 2010-2013 Mepco Payroll Records.

³¹ Supp. Submission at 4.

³² *Id.* Compare E-mail from Karen Hughes to Kevin O'Dell (Oct. 4, 2010 12:04pm) (MEPCO 00000177) ("The yellow highlights are those donations I have not yet received from you. If you intend to make those donations, please fill in the amount and return to me. I plan to make reimbursements to hit your bank on Wednesday."), with E-mail from Karen Hughes to Kevin O'Dell (Sept. 20, 2011 10:41 am) (MEPCO_00000257) ("You have \$7,056 in your account that is not yours. Save for future contributions.").

1 specific contributions made to a particular campaign.³³ In other instances, executives received
2 lump sum payments deposited into their accounts from which they were to make contributions.³⁴
3 And still in others, Hughes would simply ask executives to provide a list of contributions they
4 had already made, so she could reimburse them accordingly.³⁵

5 In many instances, executives contributed through campaign fundraisers hosted by
6 Laurita,³⁶ who often used company resources to hold them.³⁷ Frequently, Laurita's assistant,
7 Suzanne Crane, assisted Laurita with planning these fundraisers and sending out invitations as
8 well as working directly with the candidates' campaigns.³⁸

9 Laurita and his wife made over \$250,000 in federal contributions between 2009 and
10 2012, and it does not appear that Laurita received reimbursement for those contributions until the

³³ Supp. Submission at 4; E-mail from Karen Hughes to Brian Osborn and Eric Grimm (Sept. 28, 2010 9:10 am) (MEPCO_00000197) (asking whether Osborn or Grimm planned on making a "donation" to attend fundraiser for Congressman David McKinley so that funds could be added to their "reimbursements").

³⁴ Supp. Submission at 4; E-mail from Kevin O'Dell to Dawn O'Dell (Mar. 9, 2010 2:38 pm) (Mepco_00000279) ("The after tax deposit was \$11,456. We will pay out \$6,800 in the Primary and use the rest in the general later this year. We will have \$4,658 in our account for a few months.").

³⁵ See E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 15, 2010) (MEPCO_00000201) ("would you please send me a list of all the political contributions (both by check and credit card) you have made since the May primaries? I have been really really swamped over the past few days and haven't had a chance to tally for each of you.") (emphasis in original); E-mail from Eric Grimm to Karen Hughes (Sept. 18, 2010 3:22 pm) (MEPCO_00000111) (providing itemized list of contributions made from personal funds deposited into Grimm's personal account); E-mail from Karen Hughes to Brian Osborn (Mar. 28, 2012 2:16 pm), MEPCO_00000154-55 ("Please verify my records, but I show that you wrote checks for \$27,500 (including Manchin) which would be deducted from the \$28,000 net bonus.").

³⁶ See, e.g., Invitation to Fundraiser for Congressman Jason Altmire (MEPCO_00006783) ("Altmire Invitation"); E-mail from Suzanne Likins to Karen Hughes, *et al.* (Aug. 16, 2011, 12:56 pm) (MEPCO_00001498) (inviting MEPCO executives to fundraiser for Congressman Jason Altmire, hosted by Laurita and his spouse, Becky); E-mail from Suzanne Crane to Suzanne Crane, *et al.* (Mar. 26, 2013 08:17 am) (MEPCO_00004645-46) (inviting Mepco executives and other guests to fundraiser for U.S. Senate candidate Shelley Moore Capito, hosted by Laurita) ("Capito 2013 Invitation"); Invitation to Fundraiser for Congressman Mark Critz (MEPCO_00000089) ("Critz Invitation"); E-mail from Suzanne Likins to Suzanne Likins, *et al.* (Mar. 21, 2012 10:02 am) (MEPCO_00006026) (invitation to fundraiser for Senator Joe Manchin) ("Manchin 2012 Invitation"); Invitation to Fundraiser for Congressman David McKinley (MEPCO_00004015).

³⁷ See, e.g., Letter from Ron Clark, Purchasing Director, Mepco (June 21, 2010) (MEPCO_00003706) (inviting guests to fundraiser for U.S. House of Representatives candidate Mike Oliverio held at Mepco offices).

³⁸ See, e.g., E-mail from Suzanne Likins to James Laurita (Aug. 16, 2011 08:17 am) (MEPCO_00002581) (picking up campaign signs for fundraising event to be held at Laurita's residence); Capito 2013 Invitation, *supra*, n. 36; Manchin 2012 Invitation, *supra*, n. 36.

1 end of 2012. On December 10, 2012, Laurita sent Hughes an e-mail stating, "I am going to have
2 Suzanne send me my political donation total for the last few years, and have Mepco reimburse
3 me before year end to avoid tax increases"³⁹ That same day, Crane informed Laurita that
4 the total for his "political" giving was \$258,875 and also provided him with a spreadsheet
5 itemizing his federal and state contributions from 2009-2012, where the federal contributions
6 totaled \$267,750.⁴⁰ Laurita then forwarded that information to Hughes, and they agreed that
7 Mepco would reimburse him through payroll.⁴¹ According to Mepco's payroll records, Laurita
8 was awarded a bonus of \$660,000 on December 28, 2010, which appears to include the funds
9 reimbursing him for his contributions.⁴²

10 **C. Discovery of Reimbursement Program**

11 On August 30, 2013, Mepco and Longview filed petitions for Chapter 11 bankruptcy. In
12 the course of the restructuring process, Mepco's restructuring counsel, Kirkland and Ellis, LLP,
13 ("K&E") reviewed Mepco's books and records to prepare a filing in the Bankruptcy Court.⁴³ On
14 September 26, 2013, counsel learned about a category of compensation for Mepco executives
15 called "other bonus," and when K&E inquired about this bonus category, Mepco's current Chief
16 Financial Officer responded that the category represented company funds used to reimburse (or
17 advance) executives for political contributions.⁴⁴ The next day, K&E notified Longview's CEO,

³⁹ E-mail from James Laurita to Karen Hughes (Dec. 10, 2012, 07:29 am) (MEPCO_00000107).

⁴⁰ E-mail from Suzanne Likins to James Laurita (Dec. 10, 2012, 07:47 am) (MEPCO_00000077); E-mail from James Laurita to Karen Hughes (Dec. 11, 2012 4:15 am (MEPCO_00000012-13).

⁴¹ E-mail from James Laurita to Karen Hughes (Dec. 10, 2012, 08:36 am) (MEPCO_00000077).

⁴² See Mepco, LLC Payroll Records, James L. Laurita (Jan. 1, 2011-Dec. 31, 2013).

⁴³ Submission at 2.

⁴⁴ *Id.*

who authorized further investigation.⁴⁵ After the investigation, Laurita resigned as CEO and as a Board member of Mepco on November 10, 2013.⁴⁶

III. LEGAL ANALYSIS

A. Contributions Made in the Name of Another

1. There is Reason to Believe that Mepco and Mepco, LLC Knowingly and Willfully Violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f)

The Act prohibits a person from making a contribution in the name of another or knowingly permitting his or her name to be used to effect such a contribution.⁴⁷ The prohibition extends to knowingly helping or assisting any person in making a contribution made in the name of another.⁴⁸ The term “person” for purposes of the Act and Commission regulations includes partnerships, corporations, and other organizations, including LLCs.⁴⁹

A principal is liable vicariously for the acts of its agent committed within the scope of agency.⁵⁰ Here, based on the actions of its executives, Mepco admits that it reimbursed its executives for making political contributions.⁵¹ Mepco used funds from its wholly owned subsidiary, Mepco LLC, to compensate its executives for making contributions to federal candidates and other political committees. Mepco therefore made contributions in the name of another in violation of section 30122 (formerly section 441f). Further, by accepting reimbursements for contributions they made to candidates and political committees and thus

⁴⁵ *Id.*

⁴⁶ *Id.* n.1.

⁴⁷ 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(i).

⁴⁸ 11 C.F.R. § 110.4(b)(1)(iii).

⁴⁹ See 52 U.S.C. § 30101(11) (formerly 2 U.S.C. § 431(11)); 11 C.F.R. § 100.10; Advisory Op. 2009-02 (True Patriot Network) at 3.

⁵⁰ RESTATEMENT (THIRD) OF AGENCY § 7.07; see also *United States v. Sun-Diamond Growers of Cal.*, 138 F.3d 961 (D.C. Cir. 1998) (affirming criminal convictions against corporation in connection with a contribution reimbursement scheme where officer hid the scheme from others in corporation but acted to benefit the corporation).

⁵¹ Submission at I; Supp. Submission at 1.

1 serving as conduits in Mepco's reimbursement program, Mepco executives appeared to have
2 knowingly permitted their names to effect contributions made in the name of another in violation
3 of section 30122.

4 In addition, the facts appear to indicate that respondents acted knowingly and willfully.
5 A violation of the Act is knowing and willful if the "acts were committed with full knowledge of
6 all the relevant facts and a recognition that the action is prohibited by law."⁵² This does not
7 require proving knowledge of the specific statute or regulation the respondent allegedly
8 violated.⁵³ Instead, it is sufficient to demonstrate that a respondent "acted voluntarily and was
9 aware that his conduct was unlawful."⁵⁴ This may be shown by circumstantial evidence from
10 which the respondents' unlawful intent reasonably may be inferred.⁵⁵ For example, a person's
11 awareness that an action is prohibited may be inferred from "the [person's] elaborate scheme for
12 disguising their . . . political contributions."⁵⁶

13 The record here indicates that the Laurita and the eight other Mepco executives —
14 Lindsay, Stecher, Osborn, Usery, O'Dell, Polce, Grimm, and Hughes — were aware of the
15 prohibitions and limits relating to political contributions prior to October 2013. On numerous

⁵² 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

⁵³ *United States v. Danielczyk*, ___ F. Supp. 2d ___, 2013 WL 124119, *5 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

⁵⁴ *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

⁵⁵ *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants' convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

⁵⁶ *Id.* at 214-15. As the *Hopkins* court noted, "It has long been recognized that 'efforts at concealment [may] be reasonably explainable only in terms of motivation to evade' lawful obligations." *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

1 occasions, campaigns informed them about the rules for making campaign contributions.⁵⁷ For
2 example, on August 22, 2012, Laurita appears to have e-mailed to Grimm and Hughes an
3 invitation for a fundraiser hosted by Laurita, which stated, “[c]ontributions must be made from
4 your own funds, and funds cannot be provided to you by another person or entity for the purpose
5 of making this contribution.”⁵⁸ In June 2010, Hughes informed another Mepco colleague:
6 “Companies cannot donate to anything political, only individuals.”⁵⁹

7 Further, Hughes’s e-mail communications instruct other senior Mepco officers to destroy
8 e-mails stating that they would receive reimbursements for their contributions. In an e-mail to
9 six other Mepco executives, with a subject line entitled, “Manchin,” Hughes writes “You will be
10 receiving a \$1,000(net) bonus by direct deposit in the next few days. Please delete this email.”⁶⁰
11 In another e-mail, Hughes informs seven Mepco executives: “By the end of the day tomorrow
12 (Thursday), please provide your check in the amount of \$500 payable to ‘Capito for

⁵⁷ See, e.g., E-mail from Karen Hughes to Karen Hughes (Sept. 30, 2010 10:41 am) (MEPCO_00000191-192) (attaching contribution form from Spike Maynard for Congress, stating: “Please Confirm — This contribution is made from my own funds and will not be reimbursed by any other person or entity.”); E-mail from Suzanne Hammond, Shuffer U.S. Congress to Suzanne Likins, Mepco, LLC (Oct. 3, 2012 9:41am) (MEPCO_00000225-227, at 226) (stating that the campaign could only accept contributions from individuals).

Laurita also appears to have been aware that Mepco and its subsidiaries could have each made contributions given that he inquired about the ability of LLCs to make contributions. See E-mail from Louis S. Southworth, Jackson Kelly PLLC to Bill Raney, West Virginia Coal Association and James Laurita (Aug. 10, 2010 11:05 am) (MEPCO_00000066). Nevertheless, neither Mepco nor any of its affiliates made any direct contributions to candidates; rather, Laurita appears to have continued his practice of requesting that executives make contributions in their own names, which would be reimbursed by Mepco. See Supp. Submission at 4 (indicating that as a general practice, Laurita requested that officers make contributions which were to be reimbursed).

⁵⁸ E-mail from James Laurita to Eric Grimm and Karen Hughes (Aug. 22, 2012 5:02 am) (MEPCO_000000119-121) (“In essence, I was only going to have Becky and I, and Your [sic] and Sheryl give to Critz (see attached). If you agree with that, Karen will take care of adjusting your account.”); see also Invitation to Fundraiser for Citizens for Altmire hosted by James and Rebecca Laurita (MEPCO_00004227) (“Contributions are limited to personal funds of \$2,500 per person . . .”).

⁵⁹ E-mail from Karen Hughes to Ron Clark (June 4, 2010 9:47 am) (MEPCO_00004005).

⁶⁰ E-mail from Karen Hughes to Kent Lindsay, *et al.* (Aug. 13, 2010 8:49 pm) (MEPCO_00000215).

1 Congress.”⁶¹ One minute later, she sends another e-mail with the subject line “Delete this e-
2 mail” to the same individuals and states, “I’ll reimburse you in the next couple days.”⁶²

3 Mepco requests that the Commission take no action as to any of the respondents in light
4 of the corrective measures they have taken and their cooperation with the Commission in
5 providing requested information. The Commission has pursued similar *sua sponte* matters
6 involving reimbursement schemes, however, especially where the violations appeared to be
7 knowing and willful.⁶³

8 It is true that, as a matter of policy, the Commission has concluded that it may in
9 appropriate circumstances “[r]efrain from making a formal finding that a violation was knowing
10 and willful, even where the available information would otherwise support such a finding.”⁶⁴
11 However, where certain aggravating factors are present, the Commission has made knowing and
12 willful findings as to the organization itself and has found that respondents acted knowingly and
13 willfully where knowledge of the illegal nature of the activity can be attributed to its most senior
14 officers and efforts to conceal the conduct.⁶⁵ Here, the CEO and other senior executives were
15 repeatedly informed about the prohibitions and limitations of the Act and sought to destroy
16 evidence of their illegal activity. Further, Mepco’s reimbursement program was not a “one-time

⁶¹ E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:07 pm) (MEPCO_00000212).

⁶² E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:08pm) (MEPCO_00000211).

⁶³ See, e.g., MUR 6515 (Professional Fire Fighters of Wisconsin) (Commission entered into conciliation agreement for knowing and willful 441f violations); MUR 6143 (Galen Capital Group) (same); MUR 6454 (Snapper) (same). But see MUR 5357 (Centex) (Commission entered into conciliation agreement with respect to non-knowing and willful 441f violations based on mitigating circumstances).

⁶⁴ See Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16,695, 16,696 (Apr. 5, 2007) (“*Sua Sponte* Policy”).

⁶⁵ See, e.g., MUR 6515 (Professional Fire Fighters of Wisconsin) (Commission found reason to believe that respondents knowingly and willfully violated the Act where officers of the Executive Board submitted false expense forms to receive reimbursements for political contributions); MUR 6143 (Galen Capital Group) (Commission found reason to believe respondents knowingly and willfully violated the Act where CEO and other conduits signed donor cards containing warnings against reimbursed contributions and where CEO attempted to conceal true purpose of reimbursement checks). See also *Sua Sponte* Policy, 72 Fed. Reg. at 16,697.

1 event” but “an ongoing pattern of conduct repeated over an extended period of time” resulting in
2 the reimbursement of contributions apparently worth more than \$600,000.⁶⁶ Given the egregious
3 nature of the scheme here, which would have likely continued, but for the fact that it came to
4 light only when outside counsel inquired into the financial accounting of the entities in
5 connection with Mepco’s bankruptcy proceeding, the present circumstances do not warrant
6 refraining from making a knowing and willful finding in this case.

7 Accordingly, the Commission finds reason to believe that Mepco Holdings, LLC and
8 Mepco LLC knowingly and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f).⁶⁷

9 **B. Contributions Exceeding the Limits of the Act**

10 1. There is Reason to Believe that Mepco and Mepco, LLC Knowingly and
11 Willfully Violated 52 U.S.C. § 30116(a) (formerly 2 U.S.C. § 441a(a)).
12

13 The Act provides that no person shall make contributions to any federal candidate and his
14 or her authorized political committee, which in the aggregate, exceed \$2,000.⁶⁸ Contribution
15 limits are indexed for inflation, and therefore, the limit for the 2010 election cycle was \$2,400
16 per election, and \$2,500 for the 2012 election cycle, and \$2,600 for the 2014 election cycle.⁶⁹

17 Commission regulations provide that an LLC may make contributions depending on how
18 it elects to be treated under the Internal Revenue Service (“IRS”) “check the box” rules.⁷⁰ An
19 LLC that elects to be treated as a partnership under IRS rules or does not elect to be treated as
20 either a corporation or a partnership may make a contribution and is subject to the contribution

⁶⁶ *Sua Sponte* Policy at 16,697.

⁶⁷ Although funds from Mepco LLC were used to make contributions, we make findings as to Mepco Holdings LLC as well given the companies’ close relationship, Mepco’s own admission, and past Commission precedent. In MUR 5849 (Bank of America), the Commission pursued the parent organization where parent organization filed the submission and admitted to the violations.

⁶⁸ 52 U.S.C. § 30116(a)(1) (formerly 2 U.S.C. § 441a(a)(1)).

⁶⁹ See 11 C.F.R. §§ 110.1(b)(1)(i), 110.17(b).

⁷⁰ *Id.* § 110.1(g).

1 limits that apply to partnerships at 11 C.F.R. § 110.1(e).⁷¹ Contributions made by partnerships
2 are attributable both to the partnerships and to the partnerships according to the partnership
3 agreement or according to a formula set forth in Commission regulations.⁷² In contrast, an LLC
4 that elects to be treated as a corporation by the IRS is treated as a corporation for contribution
5 purposes and is prohibited from making contributions.⁷³

6 Mepco, Longview, and their subsidiaries are LLCs, but neither Mepco, Longview
7 Holdings, nor Mepco, LLC are taxed as corporations under IRS rules. Thus, Commission
8 regulations treat them as partnerships, and their contributions are subject to 11 C.F.R. § 110.1(e).
9 As such, Mepco was limited to making a \$2,400 contribution to a federal candidate per election
10 during the 2010 cycle, \$2,500 contribution during the 2012 cycle, and \$2,600 contribution during
11 the 2014 cycle. The factual record indicates that Mepco made contributions that exceed these
12 limits when it reimbursed executives for making contributions to federal candidates. Typically,
13 Mepco made its contributions in the names of numerous, and sometimes all of its executives at
14 the same time, resulting in excessive contributions to federal candidates. For example,
15 Commission disclosure reports indicate that six Mepco executives and their spouses contributed
16 over \$34,000 to Capito for Senate for the 2014 primary election. Because these contributions
17 were likely reimbursed, Mepco appears to have made an excessive contribution in this instance.
18 Further, by using company resources in planning and holding fundraisers for candidates, Mepco
19 made additional in-kind contributions to the same candidates.

20 In addition, for much the same reasons noted above, the making of excessive
21 contributions also appears to have been knowing and willful — Mepco executives were advised

⁷¹ See *id.* § 110.1(g)(2).

⁷² *Id.* § 110.1(e).

⁷³ *Id.* § 110.1(g)(3).

1 of the Act's contribution limitations, invitations to fundraisers generally contained information
2 about maximum contribution levels, and executives and their spouses also signed reattribution
3 letters referencing their familiarity with Commission regulations relating to the treatment of
4 excessive contributions.⁷⁴ Moreover, on one occasion, Congressman David McKinley forwarded
5 Laurita a copy of the Commission's Contribution Limits Chart for 2011 to 2012.⁷⁵ In an April
6 2012 e-mail to Laurita, Eric Grimm wrote, "I believe I have sorted out the different times we
7 have contributed to Altmire and Critz for the 2012 Primary starting in 2011. We are all pretty
8 well maxed out on Critz and have some room with Altmire."⁷⁶

9 Accordingly, the Commission finds reason to believe that Mepco Holdings, LLC and
10 Mepco, LLC knowingly and willfully violated 52 U.S.C. § 30116(a)(1) (formerly 2 U.S.C.
11 § 441a(a)(1)) by making excessive contributions.

⁷⁴ See, e.g., Letters from Steven Polce, Mepco, and Victoria Polce to Critz for Congress Committee (July 11, 2011) (MEPCO_00003792-3795) (requesting reattribution of contributions "[i]n accordance with FEC regulations").

⁷⁵ E-mail from David B. McKinley to James Laurita (Feb. 24, 2011 5:20 pm) (MEPCO_00002869-870).

⁷⁶ E-mail from Eric Grimm to James Laurita (Apr. 7, 2012) (MEPCO_00002278).

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 **RESPONDENT:** James Laurita, Jr.

6 **MUR** _____

7
8 **I. INTRODUCTION**

9 Mepco Holdings, LLC ("Mepco") and its parent company, Longview Intermediate
10 Holdings C, LLC ("Longview") filed a *sua sponte* submission ("Submission"), notifying the
11 Commission that James Laurita, the former Mepco Chief Executive Officer ("CEO"), caused
12 Mepco to reimburse him and eight other executives for federal and state contributions made in
13 the names of the executives and their spouses.¹ Laurita joined in the Submission.²

14 Records produced by Mepco and disclosure reports filed with the Commission indicate
15 that between 2010 and 2013, a number of Mepco executives were reimbursed for federal
16 political contributions in an amount potentially exceeding \$600,000. In addition, the evidence
17 suggests that those executives were aware that such reimbursements were illegal and acted
18 knowingly and willfully. Accordingly, the Commission finds reason to believe that James
19 Laurita, Jr. knowingly and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) by
20 knowingly permitting his name to be used to effect contributions in the name of another.

¹ Submission of Mepco Holdings, LLC and Longview Intermediate Holdings C, LLC at 4 (Nov. 17, 2013) ("Submission").

² See Submission of James Laurita (Laurita Submission) at 1.

II. FACTUAL BACKGROUND

A. Respondents

Mepco is a holding company that owns and operates numerous coal-related businesses, including Mepco, LLC.³ Mepco has been managed by three generations of the Laurita family, including James Laurita, Jr., who was the President and Chief Executive Officer of both Mepco and Mepco, LLC, until he resigned in November 2013.⁴ Mepco is a subsidiary of Longview, which owns another subsidiary, Longview Power, LLC ("Longview Power"), which operates a coal-fired power facility.⁵ Mepco provides Longview Power with coal to operate its power facility.⁶ Longview owns a 92.2% interest in Mepco with Laurita owning the remaining 7.8%.⁷ Mepco and Longview filed petitions for Chapter 11 bankruptcy petition in August 2013.⁸ Neither Mepco nor any of its subsidiaries, which are also LLCs, elected to be taxed as corporations under the Internal Revenue Code.

B. Mepco's Reimbursement of Political Contributions to Federal Candidates from 2010 through 2013

According to the Submission, after the 2008 election, Mepco's officers decided that the company should become more politically active by making contributions to federal and state candidates who were likely to support the coal industry.⁹ On March 4, 2010, Laurita requested that eight Mepco officers, who included Karen Hughes, Kent Lindsay, Rick Usery, Eric Grimm,

³ Submission at 2.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ See Voluntary Petition, *In re: Mepco Holdings, LLC*, Case No. 13:12219 (D. Del. Aug. 30, 2013) at 25 ("Mepco Bankr. Pet.").

⁸ *Id.*; Submission at 2. The ultimate parent entity of Longview and Mepco is GenPower Holdings GP ("GenPower GP"), which is not a debtor in the bankruptcy proceeding. See Mepco Bankr. Pet. at 25.

⁹ See Supp. Submission at 3.

1 Steve Polce, Kevin O'Dell, Brian Osborn, and Christopher Stecher, attend a meeting the next day
2 to discuss elections and support for particular candidates.¹⁰ As a follow-up to the March 5
3 meeting, Laurita sent another e-mail asking those officers that they make contributions in
4 specific dollar amounts to four candidates, three of whom were federal candidates running for
5 seats in the House of Representatives: Mike Oliverio, David McKinley, and Sarah Minear.
6 Laurita also suggested contribution amounts.¹¹ At Laurita's request, Mepco began reimbursing
7 executives for political contributions on March 9, 2010.¹² According to Mepco LLC's payroll
8 records, on that date, Osborn, Hughes, Polce, O'Dell, Usery, Grimm, Stecher, and Lindsay all
9 received a \$20,000 bonus.¹³ Based on an e-mail string from March 2010, it appears that Mepco
10 awarded these bonuses so that officers could make political contributions to state and federal
11 candidates. On March 9, 2010, O'Dell forwarded Laurita's e-mails to his spouse, Dawn O'Dell,
12 and instructed her to make contributions per Laurita's request and that she should use funds from
13 an after-tax deposit of \$11,456, which appears to correspond to the pre-tax \$20,000 March 9
14 bonus from Mepco, LLC.¹⁴

15 From March 2010 through March 2013, Mepco continued to provide its executives with
16 bonus payments to be used for political contributions.¹⁵ As the Submission and Commission
17 disclosure reports indicate, Laurita and the eight other Mepco officers involved in the
18 reimbursement program contributed over \$600,000 to federal candidates between 2010 and

¹⁰ E-mail from James Laurita to Karen Hughes, *et al.* (Mar. 4, 2010 12:05 pm) (Mepco_00000281).

¹¹ *Id.*

¹² See Supp. Submission at 3.

¹³ See 2010 Mepco LLC Payroll Records.

¹⁴ E-mail from Kevin O'Dell to Dawn O'Dell (Mar. 9, 2010 2:38 pm) (Mepco_00000279).

¹⁵ See Supp. Submission at 3; Mepco Combined Contribution Chart, Attach. A. We note that Laurita made two contributions in 2009 to Citizens for Altmire (\$2,500) and Capito for Congress (\$1,000) and was reimbursed for these contributions in late 2012, but the company-wide scheme involving reimbursement of the contributions of other executives apparently did not begin until March 2010.

2013, and as further described below, most if not all of these contributions appear to have been reimbursed.¹⁶

Table 1. — Reimbursed Contributions Between 2010 and 2013 by Recipient

Committee	Amount
Citizens for Altmire	\$35,300.00
Capito for Congress	\$11,500.00
Capito for West Virginia	\$34,800.00
Mark Critz for Congress	\$86,400.00
Manchin for West Virginia	\$76,300.00
Spike Maynard for Congress	\$12,800.00
McKinley for Congress	\$113,700.00
Minear for Congress	\$6,000.00
Tim Murphy for Congress	\$3,750.00
Oliverio for Congress	\$84,400.00
Tom Smith for Senate	\$17,500.00
Snuffer for Congress	\$19,193.52
Griffith for Congress	\$1,000.00
Keadle for Congress	\$5,000.00
Mike Kelly for Congress	\$1,000.00
McConnell for Senate 2014	\$2,500.00
Romney Victory, Inc.	\$50,000.00
NRCC	\$40,400.00
West Virginia Republican Party	\$30,000.00
Total:	\$631,543.52

Mepco states that the manner in which it reimbursed its executives varied.¹⁷ Laurita would at times identify candidates friendly to the coal industry and request or “instruct,” either orally or in writing, that company officers, along with their spouses, make contributions to those candidates.¹⁸ In other instances, executives made candidate recommendations to Laurita.¹⁹

¹⁶ We use “reimburse” generally to describe both advances and subsequent repayments for contributions.

¹⁷ Supp. Submission at 4.

¹⁸ *Id.*

¹⁹ *Id.*

1 Executives stated that on occasion they would discuss political candidates at monthly
2 management meetings or in other group settings.²⁰

3 When not personally soliciting contributions, Laurita frequently relied on either Hughes,
4 who handled administrative tasks related to Mepco's finances and payroll, or his assistant,
5 Suzanne Crane (née Likins), to convey his requests.²¹ Hughes and Crane communicated with
6 executives both orally and in writing, indicating which candidates should receive contributions
7 and in what amount.²² Often accompanying their requests were contribution forms for specific
8 candidates or fundraising events.²³

9 Once the officers received the requests, they or their spouses would make contributions
10 online or by check.²⁴ Typically, the executives provided checks to Hughes instead of submitting
11 them directly to a campaign or candidate.²⁵

12 At Laurita's request, Hughes and staff in the payroll department would arrange for
13 officers to receive reimbursement through "bonuses" paid through Mepco's payroll system.²⁶
14 Hughes maintained extensive charts that reflected contributions made by each executive and the

²⁰ *Id.*

²¹ *Id.*; see also E-mail from James Laurita to Suzanne Crane (Mar. 6, 2013 1:42 pm) (MEPCO_00000071) (requesting that each officer and his or her spouse contribute \$2,500); E-mail from James Laurita to Karen Hughes (Sept. 13, 2012 4:50 am) (MEPCO_00000982-983) ("Karen, I forgot about this fund raiser. Will need \$1,000 from each officer."); E-mail from James Laurita to Suzanne Crane (Mar. 6, 2013 1:46 pm) (MEPCO_00000792) ("Ask the officers to contribute \$2,500 x 2 here too"); E-mail from Karen Hughes to Brian Osborn and Eric Grimm (Sept. 28, 2010) (MEPCO_00000197) ("Are you making a donation as suggested so I can add it to your reimbursement?").

²² Supp. Submission at 4; see also E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:07 pm) (MEPCO_00003986) ("By the end of the day tomorrow (Thursday), please provide your check in the amount of \$500 payable to 'Capito for Congress.'").

²³ Supp. Submission at 4; see also E-mail from Suzanne Likins to Eric Grimm, *et al.* (Sept. 19, 2012 3:01 pm) (MEPCO_00005220-221).

²⁴ Supp. Submission at 5.

²⁵ *Id.*

²⁶ *Id.*

1 payment of reimbursements.²⁷ Specifically, payroll records indicate that funds used for
2 reimbursements came from Mepco's wholly owned subsidiary, Mepco LLC.²⁸ The method and
3 amounts of the reimbursements varied, and the payments were not made at regular intervals.²⁹
4 The timing of the "bonuses" also varied in that executives received compensation for
5 contributions either before or after making them.³⁰ Sometimes, reimbursements were tied to
6 specific contributions made to a particular campaign.³¹ In other instances, executives received
7 lump sum payments deposited into their accounts from which they were to make contributions.³²
8 And still in others, Hughes would simply ask executives to provide a list of contributions they
9 had already made, so she could reimburse them accordingly.³³

10 In many instances, executives contributed through campaign fundraisers hosted by
11 Laurita,³⁴ who often used company resources to hold them.³⁵ Frequently, Laurita's assistant,

²⁷ Supp. Submission at 4; *see also* E-mail from Karen Hughes to Rodney Bolyard (Nov. 16, 2012 1:05 pm), MEPCO_00000131-132 (reflecting candidate contributions and payment of reimbursements from 2010-2012).

²⁸ See 2010-2013 Mepco Payroll Records.

²⁹ Supp. Submission at 4.

³⁰ *Id.* Compare E-mail from Karen Hughes to Kevin O'Dell (Oct. 4, 2010 12:04pm) (MEPCO 00000177) ("The yellow highlights are those donations I have not yet received from you. If you intend to make those donations, please fill in the amount and return to me. I plan to make reimbursements to hit your bank on Wednesday."), with E-mail from Karen Hughes to Kevin O'Dell (Sept. 20, 2011 10:41 am) (MEPCO_00000257) ("You have \$7,056 in your account that is not yours. Save for future contributions.").

³¹ Supp. Submission at 4; E-mail from Karen Hughes to Brian Osborn and Eric Grimm (Sept. 28, 2010 9:10 am) (MEPCO_00000197) (asking whether Osborn or Grimm planned on making a "donation" to attend fundraiser for Congressman David McKinley so that funds could be added to their "reimbursements").

³² Supp. Submission at 4; E-mail from Kevin O'Dell to Dawn O'Dell (Mar. 9, 2010 2:38 pm) (Mepco_00000279) ("The after tax deposit was \$11,456. We will pay out \$6,800 in the Primary and use the rest in the general later this year. We will have \$4,658 in our account for a few months.").

³³ See E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 15, 2010) (MEPCO_00000201) ("would you please send me a list of all the political contributions (both by check and credit card) you have made since the May primaries? I have been really really swamped over the past few days and haven't had a chance to tally for each of you.") (emphasis in original); E-mail from Eric Grimm to Karen Hughes (Sept. 18, 2010 3:22 pm) (MEPCO_00000111) (providing itemized list of contributions made from personal funds deposited into Grimm's personal account); E-mail from Karen Hughes to Brian Osborn (Mar. 28, 2012 2:16 pm), MEPCO_00000154-55 ("Please verify my records, but I show that you wrote checks for \$27,500 (including Manchin) which would be deducted from the \$28,000 net bonus.").

³⁴ See, e.g., Invitation to Fundraiser for Congressman Jason Altmire (MEPCO_00006783) ("Altmire Invitation"); E-mail from Suzanne Likins to Karen Hughes, *et al.* (Aug. 16, 2011, 12:56 pm) (MEPCO_00001498)

1 Suzanne Crane, assisted Laurita with planning these fundraisers and sending out invitations as
2 well as working directly with the candidates' campaigns.³⁶

3 Laurita and his wife made over \$250,000 in federal contributions between 2009 and
4 2012, and it does not appear that Laurita received reimbursement for those contributions until the
5 end of 2012. On December 10, 2012, Laurita sent Hughes an e-mail stating, "I am going to have
6 Suzanne send me my political donation total for the last few years, and have Mepco reimburse
7 me before year end to avoid tax increases" ³⁷ That same day, Crane informed Laurita that
8 the total for his "political" giving was \$258,875 and also provided him with a spreadsheet
9 itemizing his federal and state contributions from 2009-2012, where the federal contributions
10 totaled \$267,750. ³⁸ Laurita then forwarded that information to Hughes, and they agreed that
11 Mepco would reimburse him through payroll. ³⁹ According to Mepco's payroll records, Laurita
12 was awarded a bonus of \$660,000 on December 28, 2010, which appears to include the funds
13 reimbursing him for his contributions. ⁴⁰

(inviting MEPCO executives to fundraiser for Congressman Jason Altmire, hosted by Laurita and his spouse, Becky); E-mail from Suzanne Crane to Suzanne Crane, *et al.* (Mar. 26, 2013 08:17 am) (MEPCO_00004645-46) (inviting Mepco executives and other guests to fundraiser for U.S. Senate candidate Shelley Moore Capito, hosted by Laurita) ("Capito 2013 Invitation"); Invitation to Fundraiser for Congressman Mark Critz (MEPCO_00000089) ("Critz Invitation"); E-mail from Suzanne Likins to Suzanne Likins, *et al.* (Mar. 21, 2012 10:02 am) (MEPCO_00006026) (invitation to fundraiser for Senator Joe Manchin) ("Manchin 2012 Invitation"); Invitation to Fundraiser for Congressman David McKinley (MEPCO_00004015).

³⁵ See, e.g., Letter from Ron Clark, Purchasing Director, Mepco (June 21, 2010) (MEPCO_00003706) (inviting guests to fundraiser for U.S. House of Representatives candidate Mike Oliverio held at Mepco offices).

³⁶ See, e.g., E-mail from Suzanne Likins to James Laurita (Aug. 16, 2011 08:17 am) (MEPCO_00002581) (picking up campaign signs for fundraising event to be held at Laurita's residence); Capito 2013 Invitation, *supra*, n. 35; Manchin 2012 Invitation, *supra*, n. 35.

³⁷ E-mail from James Laurita to Karen Hughes (Dec. 10, 2012, 07:29 am) (MEPCO_00000107).

³⁸ E-mail from Suzanne Likins to James Laurita (Dec. 10, 2012, 07:47 am) (MEPCO_00000077); E-mail from James Laurita to Karen Hughes (Dec. 11, 2012 4:15 am) (MEPCO_00000012-13).

³⁹ E-mail from James Laurita to Karen Hughes (Dec. 10, 2012, 08:36 am) (MEPCO_00000077).

⁴⁰ See Mepco, LLC Payroll Records, James L. Laurita (Jan. 1, 2011-Dec. 31, 2013).

C. Discovery of Reimbursement Program

On August 30, 2013, Mepco and Longview filed petitions for Chapter 11 bankruptcy. In the course of the restructuring process, Mepco's restructuring counsel, Kirkland and Ellis, LLP, ("K&E") reviewed Mepco's books and records to prepare a filing in the Bankruptcy Court.⁴¹ On September 26, 2013, counsel learned about a category of compensation for Mepco executives called "other bonus," and when K&E inquired about this bonus category, Mepco's current Chief Financial Officer responded that the category represented company funds used to reimburse (or advance) executives for political contributions.⁴² The next day, K&E notified Longview's CEO, who authorized further investigation.⁴³ After the investigation, Laurita resigned as CEO and as a Board member of Mepco on November 10, 2013.⁴⁴

III. LEGAL ANALYSIS

A. Contributions Made in the Name of Another

The Act prohibits a person from making a contribution in the name of another or knowingly permitting his or her name to be used to effect such a contribution.⁴⁵ The prohibition extends to knowingly helping or assisting any person in making a contribution made in the name of another.⁴⁶ The term "person" for purposes of the Act and Commission regulations includes partnerships, corporations, and other organizations, including LLCs.⁴⁷

⁴¹ Submission at 2.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.* n.1.

⁴⁵ 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(i).

⁴⁶ 11 C.F.R. § 110.4(b)(1)(iii).

⁴⁷ See 52 U.S.C. § 30101(11) (formerly 2 U.S.C. § 431(11)); 11 C.F.R. § 100.10; Advisory Op. 2009-02 (True Patriot Network) at 3.

1 A principal is liable vicariously for the acts of its agent committed within the scope of
2 agency.⁴⁸ Here, based on the actions of its executives, Mepco admits that it reimbursed its
3 executives for making political contributions.⁴⁹ In addition, Laurita admits that he received
4 reimbursements for making contributions. Mepco used funds from its wholly owned subsidiary,
5 Mepco LLC, to compensate its executives for making contributions to federal candidates and
6 other political committees. Mepco therefore made contributions in the name of another in
7 violation of section 30122 (formerly section 441f). Further, by accepting reimbursements for
8 contributions he made to candidates and political committees and thus serving as a conduit in
9 Mepco's reimbursement program, Laurita appeared to have knowingly permitted his names to
10 effect contributions made in the name of another in violation of section 30122.

11 In addition, the facts appear to indicate that Laurita acted knowingly and willfully. A
12 violation of the Act is knowing and willful if the "acts were committed with full knowledge of
13 all the relevant facts and a recognition that the action is prohibited by law."⁵⁰ This does not
14 require proving knowledge of the specific statute or regulation the respondent allegedly
15 violated.⁵¹ Instead, it is sufficient to demonstrate that a respondent "acted voluntarily and was
16 aware that his conduct was unlawful."⁵² This may be shown by circumstantial evidence from

⁴⁸ RESTATEMENT (THIRD) OF AGENCY § 7.07; see also *United States v. Sun-Diamond Growers of Cal.*, 138 F.3d 961 (D.C. Cir. 1998) (affirming criminal convictions against corporation in connection with a contribution reimbursement scheme where officer hid the scheme from others in corporation but acted to benefit the corporation).

⁴⁹ Submission at 1; Supp. Submission at 1.

⁵⁰ 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

⁵¹ *United States v. Danielczyk*, ___ F. Supp. 2d ___, 2013 WL 124119, *5 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

⁵² *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

1 which the respondents' unlawful intent reasonably may be inferred.⁵³ For example, a person's
2 awareness that an action is prohibited may be inferred from "the [person's] elaborate scheme for
3 disguising their . . . political contributions."⁵⁴

4 In his submission, Laurita denies that he had any knowledge that Mepco's reimbursement
5 program was unlawful until October 2013 when the Chief Executive of Longview notified him
6 that the program was illegal and the program ended.⁵⁵ But the record here indicates that Laurita
7 was aware of the prohibitions and limits relating to political contributions prior to October
8 2013.⁵⁶ For example, on August 22, 2012, Laurita appears to have e-mailed to Grimm and
9 Hughes an invitation for a fundraiser hosted by Laurita, which stated, "[c]ontributions must be
10 made from your own funds, and funds cannot be provided to you by another person or entity for
11 the purpose of making this contribution."⁵⁷

⁵³ Cf. *United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants' convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

⁵⁴ *Id.* at 214-15. As the *Hopkins* court noted, "It has long been recognized that 'efforts at concealment [may] be reasonably explainable only in terms of motivation to evade' lawful obligations." *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

⁵⁵ Laurita Submission at 2.

⁵⁶ On one occasion, Congressman David McKinley forwarded Laurita a copy of the Commission's Contribution Limits Chart for 2011 to 2012. See E-mail from David B. McKinley to James Laurita (Feb. 24, 2011 5:20 pm) (MEPCO_00002869-870).

⁵⁷ E-mail from James Laurita to Eric Grimm and Karen Hughes (Aug. 22, 2012 5:02 am) (MEPCO_000000119-121) ("In essence, I was only going to have Becky and I, and Your [sic] and Sheryl give to Critz (see attached). If you agree with that, Karen will take care of adjusting your account."); see also Invitation to Fundraiser for Citizens for Altmire hosted by James and Rebecca Laurita (MEPCO_00004227) ("Contributions are limited to personal funds of \$2,500 per person . . .").

Laurita also appears to have been aware that Mepco and its subsidiaries could have each made contributions given that he inquired about the ability of LLCs to make contributions. See E-mail from Louis S. Southworth, Jackson Kelly PLLC to Bill Raney, West Virginia Coal Association and James Laurita (Aug. 10, 2010 11:05 am) (MEPCO_00000066). Nevertheless, neither Mepco nor any of its affiliates made any direct contributions to candidates; rather, Laurita appears to have continued his practice of requesting that executives make contributions in their own names, which would be reimbursed by Mepco. See Supp. Submission at 4 (indicating that as a general practice, Laurita requested that officers make contributions which were to be reimbursed).

1 It is true that, as a matter of policy, the Commission has concluded that it may in
2 appropriate circumstances “[r]efrain from making a formal finding that a violation was knowing
3 and willful, even where the available information would otherwise support such a finding.”⁵⁸
4 However, where certain aggravating factors are present, the Commission has made knowing and
5 willful findings as to the organization itself and has found that respondents acted knowingly and
6 willfully where knowledge of the illegal nature of the activity can be attributed to its most senior
7 officers and efforts to conceal the conduct.⁵⁹ Here, Laurita was informed about the prohibitions
8 and limitations of the Act. Further, Mepco’s reimbursement program was not a “one-time event”
9 but “an ongoing pattern of conduct repeated over an extended period of time” resulting in the
10 reimbursement of contributions apparently worth more than \$600,000.⁶⁰ Given the egregious
11 nature of the scheme here, which would have likely continued, but for the fact that it came to
12 light only when outside counsel inquired into the financial accounting of the entities in
13 connection with Mepco’s bankruptcy proceeding, the present circumstances do not warrant
14 refraining from making a knowing and willful finding in this case.

15 Accordingly, the Commission finds reason to believe that James Laurita, Jr. knowingly
16 and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f).

17

⁵⁸ See Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16,695, 16,696 (Apr. 5, 2007) (“*Sua Sponte* Policy”).

⁵⁹ See, e.g., MUR 6515 (Professional Fire Fighters of Wisconsin) (Commission found reason to believe that respondents knowingly and willfully violated the Act where officers of the Executive Board submitted false expense forms to receive reimbursements for political contributions); MUR 6143 (Galen Capital Group) (Commission found reason to believe respondents knowingly and willfully violated the Act where CEO and other conduits signed donor cards containing warnings against reimbursed contributions and where CEO attempted to conceal true purpose of reimbursement checks). See also *Sua Sponte* Policy, 72 Fed. Reg. at 16,697.

⁶⁰ *Sua Sponte* Policy at 16,697.

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 **RESPONDENTS:** Karen Hughes
6 R. Kevin O'Dell
7 Brian M. Osborn
8 Steven B. Polce
9 Richard R. Usery

MUR _____

10
11 **I. INTRODUCTION**

12 Mepco Holdings, LLC ("Mepco") and its parent company, Longview Intermediate
13 Holdings C, LLC ("Longview") filed a *sua sponte* submission ("Submission"), notifying the
14 Commission that James Laurita, the former Mepco Chief Executive Officer ("CEO"), caused
15 Mepco to reimburse him and eight other executives for federal and state contributions made in
16 the names of the executives and their spouses.¹ Karen Hughes, R. Kevin O'Dell, Brian M.
17 Osborn, Steven B. Polce, and Richard R. Usery, currently employed as executives of Mepco,
18 joined in the Submission.²

19 Records produced by Mepco and disclosure reports filed with the Commission indicate
20 that between 2010 and 2013, a number of Mepco executives were reimbursed for federal
21 political contributions in an amount potentially exceeding \$600,000. In addition, the evidence
22 suggests that those executives were aware that such reimbursements were illegal and acted
23 knowingly and willfully. Accordingly, the Commission finds reason to believe that Karen
24 Hughes, R. Kevin O'Dell, Brian M. Osborn, Steven B. Polce, and Richard R. Usery knowingly

¹ Submission of Mepco Holdings, LLC and Longview Intermediate Holdings C, LLC at 4 (Nov. 17, 2013) ("Submission").

² See Submission of Karen Hughes, Brian Osborn, Kevin O'Dell, Steven Polce, and Richard Usery (Jan. 29, 2014) ("Co-Executive Submission") at 1.

1 and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) by knowingly permitting
2 their names to be used to effect contributions in the name of another.

3 **II. FACTUAL BACKGROUND**

4 **A. Respondents.**

5 Mepco is a holding company that owns and operates numerous coal-related businesses,
6 including Mepco, LLC.³ Mepco has been managed by three generations of the Laurita family,
7 including James Laurita, Jr., who was the President and Chief Executive Officer of both Mepco
8 and Mepco, LLC, until he resigned in November 2013.⁴ Mepco is a subsidiary of Longview,
9 which owns another subsidiary, Longview Power, LLC ("Longview Power"), which operates a
10 coal-fired power facility.⁵ Mepco provides Longview Power with coal to operate its power
11 facility.⁶ Longview owns a 92.2% interest in Mepco with Laurita owning the remaining 7.8%.⁷
12 Mepco and Longview filed petitions for Chapter 11 bankruptcy petition in August 2013.⁸
13 Neither Mepco nor any of its subsidiaries, which are also LLCs, elected to be taxed as
14 corporations under the Internal Revenue Code.

15 The other executives who received reimbursements for contributions include five
16 individuals who are currently employed by Mepco: (1) Karen Hughes, Secretary and Treasurer,
17 Mepco; (2) R. Kevin O'Dell, Vice President of Human Resources and Safety, Mepco, LLC; (3)
18 Brian M. Osborn, Vice President of Engineering, Mepco, LLC; (4) Steven B. Polce, Vice

3 Submission at 2.

4 *Id.*

5 *Id.*

6 *Id.*

7 See Voluntary Petition, *In re: Mepco Holdings, LLC*, Case No. 13:12219 (D. Del. Aug. 30, 2013) at 25 ("Mepco Bankr. Pet.").

8 *Id.*; Submission at 2. The ultimate parent entity of Longview and Mepco is GenPower Holdings GP ("GenPower GP"), which is not a debtor in the bankruptcy proceeding. See Mepco Bankr. Pet. at 25.

- 1 President of Dana Mining for West Virginia, a subsidiary of Mepco; and (5) Richard R. Usery,
2 Vice President — Coal Sales and Surface Operations, Mepco, LLC.⁹

3 **B. Mepco's Reimbursement of Political Contributions to Federal Candidates**
4 **from 2010 through 2013**
5

6 According to the Submission, after the 2008 election, Mepco's officers decided that the
7 company should become more politically active by making contributions to federal and state
8 candidates who were likely to support the coal industry.¹⁰ On March 4, 2010, Laurita requested
9 that eight Mepco officers, who included Karen Hughes, Kent Lindsay, Rick Usery, Eric Grimm,
10 Steve Polce, Kevin O'Dell, Brian Osborn, and Christopher Stecher, attend a meeting the next day
11 to discuss elections and support for particular candidates.¹¹ As a follow-up to the March 5
12 meeting, Laurita sent another e-mail asking those officers that they make contributions in
13 specific dollar amounts to four candidates, three of whom were federal candidates running for
14 seats in the House of Representatives: Mike Oliverio, David McKinley, and Sarah Minear.
15 Laurita also suggested contribution amounts.¹² At Laurita's request, Mepco began reimbursing
16 executives for political contributions on March 9, 2010.¹³ According to Mepco LLC's payroll
17 records, on that date, Osborn, Hughes, Polce, O'Dell, Usery, Grimm, Stecher, and Lindsay all
18 received a \$20,000 bonus.¹⁴ Based on an e-mail string from March 2010, it appears that Mepco
19 awarded these bonuses so that officers could make political contributions to state and federal
20 candidates. On March 9, 2010, O'Dell forwarded Laurita's e-mails to his spouse, Dawn O'Dell,
21 and instructed her to make contributions per Laurita's request and that she should use funds from

⁹ Submission at 4.

¹⁰ See Supp. Submission at 3.

¹¹ E-mail from James Laurita to Karen Hughes, *et al.* (Mar. 4, 2010 12:05 pm) (Mepco_00000281).

¹² *Id.*

¹³ See Supp. Submission at 3.

¹⁴ See 2010 Mepco LLC Payroll Records.

1 an after-tax deposit of \$11,456, which appears to correspond to the pre-tax \$20,000 March 9
2 bonus from Mepco, LLC.¹⁵

3 From March 2010 through March 2013, Mepco continued to provide its executives with
4 bonus payments to be used for political contributions.¹⁶ As the Submission and Commission
5 disclosure reports indicate, Laurita and the eight other Mepco officers involved in the
6 reimbursement program contributed over \$600,000 to federal candidates between 2010 and
7 2013, and as further described below, most if not all of these contributions appear to have been
8 reimbursed.¹⁷

9 Table 1. — Reimbursed Contributions Between 2010 and 2013 by Recipient

Committee	Amount
Citizens for Altmire	\$35,300.00
Capito for Congress	\$11,500.00
Capito for West Virginia	\$34,800.00
Mark Critz for Congress	\$86,400.00
Manchin for West Virginia	\$76,300.00
Spike Maynard for Congress	\$12,800.00
McKinley for Congress	\$113,700.00
Minear for Congress	\$6,000.00
Tim Murphy for Congress	\$3,750.00
Oliverio for Congress	\$84,400.00
Tom Smith for Senate	\$17,500.00
Snuffer for Congress	\$19,193.52
Griffith for Congress	\$1,000.00
Keadle for Congress	\$5,000.00
Mike Kelly for Congress	\$1,000.00
McConnell for Senate 2014	\$2,500.00
Romney Victory, Inc.	\$50,000.00
NRCC	\$40,400.00

¹⁵ E-mail from Kevin O'Dell to Dawn O'Dell (Mar. 9, 2010 2:38 pm) (Mepco_00000279).

¹⁶ See Supp. Submission at 3; Mepco Combined Contribution Chart, Attach. A. We note that Laurita made two contributions in 2009 to Citizens for Altmire (\$2,500) and Capito for Congress (\$1,000) and was reimbursed for these contributions in late 2012, but the company-wide scheme involving reimbursement of the contributions of other executives apparently did not begin until March 2010.

¹⁷ We use "reimburse" generally to describe both advances and subsequent repayments for contributions.

West Virginia Republican Party	\$30,000.00
Total:	\$631,543.52

1
2 Mepco states that the manner in which it reimbursed its executives varied.¹⁸ Laurita
3 would at times identify candidates friendly to the coal industry and request or "instruct," either
4 orally or in writing, that company officers, along with their spouses, make contributions to those
5 candidates.¹⁹ In other instances, executives made candidate recommendations to Laurita.²⁰
6 Executives stated that on occasion they would discuss political candidates at monthly
7 management meetings or in other group settings.²¹

8 When not personally soliciting contributions, Laurita frequently relied on either Hughes,
9 who handled administrative tasks related to Mepco's finances and payroll, or his assistant,
10 Suzanne Crane (née Likins), to convey his requests.²² Hughes and Crane communicated with
11 executives both orally and in writing, indicating which candidates should receive contributions
12 and in what amount.²³ Often accompanying their requests were contribution forms for specific
13 candidates or fundraising events.²⁴

¹⁸ Supp. Submission at 4.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*; see also E-mail from James Laurita to Suzanne Crane (Mar. 6, 2013 1:42 pm) (MEPCO_00000071) (requesting that each officer and his or her spouse contribute \$2,500); E-mail from James Laurita to Karen Hughes (Sept. 13, 2012 4:50 am) (MEPCO_00000982-983) ("Karen, I forgot about this fund raiser. Will need \$1,000 from each officer."); E-mail from James Laurita to Suzanne Crane (Mar. 6, 2013 1:46 pm) (MEPCO_00000792) ("Ask the officers to contribute \$2,500 x 2 here too"); E-mail from Karen Hughes to Brian Osborn and Eric Grimm (Sept. 28, 2010) (MEPCO_00000197) ("Are you making a donation as suggested so I can add it to your reimbursement?").

²³ Supp. Submission at 4; see also E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:07 pm) (MEPCO_00003986) ("By the end of the day tomorrow (Thursday), please provide your check in the amount of \$500 payable to 'Capito for Congress.'").

²⁴ Supp. Submission at 4; see also E-mail from Suzanne Likins to Eric Grimm, *et al.* (Sept. 19, 2012 3:01 pm) (MEPCO_00005220-221).

1 Once the officers received the requests, they or their spouses would make contributions
2 online or by check.²⁵ Typically, the executives provided checks to Hughes instead of submitting
3 them directly to a campaign or candidate.²⁶

4 At Laurita's request, Hughes and staff in the payroll department would arrange for
5 officers to receive reimbursement through "bonuses" paid through Mepco's payroll system.²⁷
6 Hughes maintained extensive charts that reflected contributions made by each executive and the
7 payment of reimbursements.²⁸ Specifically, payroll records indicate that funds used for
8 reimbursements came from Mepco's wholly owned subsidiary, Mepco LLC.²⁹ The method and
9 amounts of the reimbursements varied, and the payments were not made at regular intervals.³⁰
10 The timing of the "bonuses" also varied in that executives received compensation for
11 contributions either before or after making them.³¹ Sometimes, reimbursements were tied to
12 specific contributions made to a particular campaign.³² In other instances, executives received
13 lump sum payments deposited into their accounts from which they were to make contributions.³³

²⁵ Supp. Submission at 5.

²⁶ *Id.*

²⁷ *Id.*

²⁸ Supp. Submission at 4; *see also* E-mail from Karen Hughes to Rodney Bolyard (Nov. 16, 2012 1:05 pm), MEPCO_00000131-132 (reflecting candidate contributions and payment of reimbursements from 2010-2012).

²⁹ *See* 2010-2013 Mepco Payroll Records.

³⁰ Supp. Submission at 4.

³¹ *Id. Compare* E-mail from Karen Hughes to Kevin O'Dell (Oct. 4, 2010 12:04pm) (MEPCO 00000177) ("The yellow highlights are those donations I have not yet received from you. If you intend to make those donations, please fill in the amount and return to me. I plan to make reimbursements to hit your bank on Wednesday."), *with* E-mail from Karen Hughes to Kevin O'Dell (Sept. 20, 2011 10:41 am) (MEPCO_00000257) ("You have \$7,056 in your account that is not yours. Save for future contributions.").

³² Supp. Submission at 4; E-mail from Karen Hughes to Brian Osborn and Eric Grimm (Sept. 28, 2010 9:10 am) (MEPCO_00000197) (asking whether Osborn or Grimm planned on making a "donation" to attend fundraiser for Congressman David McKinley so that funds could be added to their "reimbursements").

³³ Supp. Submission at 4; E-mail from Kevin O'Dell to Dawn O'Dell (Mar. 9, 2010 2:38 pm) (Mepco_00000279) ("The after tax deposit was \$11,456. We will pay out \$6,800 in the Primary and use the rest in the general later this year. We will have \$4,658 in our account for a few months.").

1 And still in others, Hughes would simply ask executives to provide a list of contributions they
2 had already made, so she could reimburse them accordingly.³⁴

3 In many instances, executives contributed through campaign fundraisers hosted by
4 Laurita,³⁵ who often used company resources to hold them.³⁶ Frequently, Laurita's assistant,
5 Suzanne Crane, assisted Laurita with planning these fundraisers and sending out invitations as
6 well as working directly with the candidates' campaigns.³⁷

7 **C. Discovery of Reimbursement Program**

8 On August 30, 2013, Mepco and Longview filed petitions for Chapter 11 bankruptcy. In
9 the course of the restructuring process, Mepco's restructuring counsel, Kirkland and Ellis, LLP,
10 ("K&E") reviewed Mepco's books and records to prepare a filing in the Bankruptcy Court.³⁸ On
11 September 26, 2013, counsel learned about a category of compensation for Mepco executives
12 called "other bonus," and when K&E inquired about this bonus category, Mepco's current Chief

³⁴ See E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 15, 2010) (MEPCO_00000201) ("would you please send me a list of all the political contributions (both by check and credit card) you have made since the May primaries? I have been really really swamped over the past few days and haven't had a chance to tally for each of you.") (emphasis in original); E-mail from Eric Grimm to Karen Hughes (Sept. 18, 2010 3:22 pm) (MEPCO_00000111) (providing itemized list of contributions made from personal funds deposited into Grimm's personal account); E-mail from Karen Hughes to Brian Osborn (Mar. 28, 2012 2:16 pm), MEPCO_00000154-55 ("Please verify my records, but I show that you wrote checks for \$27,500 (including Manchin) which would be deducted from the \$28,000 net bonus.").

³⁵ See, e.g., Invitation to Fundraiser for Congressman Jason Altmire (MEPCO_00006783) ("Altmire Invitation"); E-mail from Suzanne Likins to Karen Hughes, *et al.* (Aug. 16, 2011, 12:56 pm) (MEPCO_00001498) (inviting MEPCO executives to fundraiser for Congressman Jason Altmire, hosted by Laurita and his spouse, Becky); E-mail from Suzanne Crane to Suzanne Crane, *et al.* (Mar. 26, 2013 08:17 am) (MEPCO_00004645-46) (inviting Mepco executives and other guests to fundraiser for U.S. Senate candidate Shelley Moore Capito, hosted by Laurita) ("Capito 2013 Invitation"); Invitation to Fundraiser for Congressman Mark Critz (MEPCO_00000089) ("Critz Invitation"); E-mail from Suzanne Likins to Suzanne Likins, *et al.* (Mar. 21, 2012 10:02 am) (MEPCO_00006026) (invitation to fundraiser for Senator Joe Manchin) ("Manchin 2012 Invitation"); Invitation to Fundraiser for Congressman David McKinley (MEPCO_00004015).

³⁶ See, e.g., Letter from Ron Clark, Purchasing Director, Mepco (June 21, 2010) (MEPCO_00003706) (inviting guests to fundraiser for U.S. House of Representatives candidate Mike Oliverio held at Mepco offices).

³⁷ See, e.g., E-mail from Suzanne Likins to James Laurita (Aug. 16, 2011 08:17 am) (MEPCO_00002581) (picking up campaign signs for fundraising event to be held at Laurita's residence); Capito 2013 Invitation, *supra*, n. 35; Manchin 2012 Invitation, *supra*, n. 35.

³⁸ Submission at 2.

1 Financial Officer responded that the category represented company funds used to reimburse (or
2 advance) executives for political contributions.³⁹ The next day, K&E notified Longview's CEO,
3 who authorized further investigation.⁴⁰ After the investigation, Laurita resigned as CEO and as a
4 Board member of Mepco on November 10, 2013.⁴¹

5 III. LEGAL ANALYSIS

6 A. Contributions Made in the Name of Another

7 The Act prohibits a person from making a contribution in the name of another or
8 knowingly permitting his or her name to be used to effect such a contribution.⁴² The prohibition
9 extends to knowingly helping or assisting any person in making a contribution made in the name
10 of another.⁴³ The term "person" for purposes of the Act and Commission regulations includes
11 partnerships, corporations, and other organizations, including LLCs.⁴⁴

12 A principal is liable vicariously for the acts of its agent committed within the scope of
13 agency.⁴⁵ Here, based on the actions of its executives, Mepco admits that it reimbursed its
14 executives for making political contributions.⁴⁶ In addition, the executives who are currently
15 employed by Mepco — including Hughes, O'Dell, Osborn, Polce, and Usery — admit that they
16 received reimbursements for making contributions. Mepco used funds from its wholly owned
17 subsidiary, Mepco LLC, to compensate its executives for making contributions to federal

39 *Id.*

40 *Id.*

41 *Id.* n. 1.

42 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(i).

43 11 C.F.R. § 110.4(b)(1)(iii).

44 See 52 U.S.C. § 30101(11) (formerly 2 U.S.C. § 431(11)); 11 C.F.R. § 100.10; Advisory Op. 2009-02 (True Patriot Network) at 3.

45 RESTATEMENT (THIRD) OF AGENCY § 7.07; see also *United States v. Sun-Diamond Growers of Cal.*, 138 F.3d 961 (D.C. Cir. 1998) (affirming criminal convictions against corporation in connection with a contribution reimbursement scheme where officer hid the scheme from others in corporation but acted to benefit the corporation).

46 Submission at 1; Supp. Submission at 1.

1 candidates and other political committees. Mepco therefore made contributions in the name of
2 another in violation of section 30122 (formerly section 441f). Further, by accepting
3 reimbursements for contributions they made to candidates and political committees and thus
4 serving as conduits in Mepco's reimbursement program, Mepco executives appeared to have
5 knowingly permitted their names to effect contributions made in the name of another in violation
6 of section 30122.

7 In addition, the facts appear to indicate that respondents acted knowingly and willfully.
8 A violation of the Act is knowing and willful if the "acts were committed with full knowledge of
9 all the relevant facts and a recognition that the action is prohibited by law."⁴⁷ This does not
10 require proving knowledge of the specific statute or regulation the respondent allegedly
11 violated.⁴⁸ Instead, it is sufficient to demonstrate that a respondent "acted voluntarily and was
12 aware that his conduct was unlawful."⁴⁹ This may be shown by circumstantial evidence from
13 which the respondents' unlawful intent reasonably may be inferred.⁵⁰ For example, a person's
14 awareness that an action is prohibited may be inferred from "the [person's] elaborate scheme for
15 disguising their . . . political contributions."⁵¹

⁴⁷ 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

⁴⁸ *United States v. Danielczyk*, ___ F. Supp. 2d ___, 2013 WL 124119, *5 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

⁴⁹ *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

⁵⁰ *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants' convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

⁵¹ *Id.* at 214-15. As the *Hopkins* court noted, "It has long been recognized that 'efforts at concealment [may] be reasonably explainable only in terms of motivation to evade' lawful obligations." *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

1 The record here indicates that Mepco executives, including Osborn, Usery, O'Dell, Polcè,
2 and Hughes, were aware of the prohibitions and limits relating to political contributions prior to
3 October 2013. On numerous occasions, campaigns informed them about the rules for making
4 campaign contributions.⁵² For example, on August 22, 2012, Laurita appears to have e-mailed to
5 Grimm and Hughes an invitation for a fundraiser hosted by Laurita, which stated,
6 "[c]ontributions must be made from your own funds, and funds cannot be provided to you by
7 another person or entity for the purpose of making this contribution."⁵³ In June 2010, Hughes
8 informed another Mepco colleague: "Companies cannot donate to anything political, only
9 individuals."⁵⁴

10 Further, Hughes's e-mail communications instruct other senior Mepco officers to destroy
11 e-mails stating that they would receive reimbursements for their contributions. In an e-mail to
12 six other Mepco executives, with a subject line entitled, "Manchin," Hughes writes "You will be
13 receiving a \$1,000(net) bonus by direct deposit in the next few days. Please delete this email."⁵⁵
14 In another e-mail, Hughes informs seven Mepco executives: "By the end of the day tomorrow

⁵² See, e.g., E-mail from Karen Hughes to Karen Hughes (Sept. 30, 2010 10:41 am) (MEPCO_00000191-192) (attaching contribution form from Spike Maynard for Congress, stating: "Please Confirm — This contribution is made from my own funds and will not be reimbursed by any other person or entity."); E-mail from Suzanne Hammond, Snuffer U.S. Congress to Suzanne Likins, Mepco, LLC (Oct. 3, 2012 9:41am) (MEPCO_00000225-227, at 226) (stating that the campaign could only accept contributions from individuals).

Laurita also appears to have been aware that Mepco and its subsidiaries could have each made contributions given that he inquired about the ability of LLCs to make contributions. See E-mail from Louis S. Southworth, Jackson Kelly PLLC to Bill Raney, West Virginia Coal Association and James Laurita (Aug. 10, 2010 11:05 am) (MEPCO_00000066). Nevertheless, neither Mepco nor any of its affiliates made any direct contributions to candidates; rather, Laurita appears to have continued his practice of requesting that executives make contributions in their own names, which would be reimbursed by Mepco. See Supp. Submission at 4 (indicating that as a general practice, Laurita requested that officers make contributions which were to be reimbursed).

⁵³ E-mail from James Laurita to Eric Grimm and Karen Hughes (Aug. 22, 2012 5:02 am) (MEPCO_000000119-121) ("In essence, I was only going to have Becky and I, and Your [sic] and Sheryl give to Critz (see attached). If you agree with that, Karen will take care of adjusting your account."); see also Invitation to Fundraiser for Citizens for Altmire hosted by James and Rebecca Laurita (MEPCO_00004227) ("Contributions are limited to personal funds of \$2,500 per person . . .").

⁵⁴ E-mail from Karen Hughes to Ron Clark (June 4, 2010 9:47 am) (MEPCO_00004005).

⁵⁵ E-mail from Karen Hughes to Kent Lindsay, *et al.* (Aug. 13, 2010 8:49 pm) (MEPCO_00000215).

(Thursday), please provide your check in the amount of \$500 payable to 'Capito for Congress.'"⁵⁶ One minute later, she sends another e-mail with the subject line "Delete this e-mail" to the same individuals and states, "I'll reimburse you in the next couple days."⁵⁷

Respondents request that the Commission take no action as to any of them in light of the corrective measures they have taken and their cooperation with the Commission in providing requested information. The Commission has pursued similar *sua sponte* matters involving reimbursement schemes, however, especially where the violations appeared to be knowing and willful.⁵⁸

It is true that, as a matter of policy, the Commission has concluded that it may in appropriate circumstances "[r]efrain from making a formal finding that a violation was knowing and willful, even where the available information would otherwise support such a finding."⁵⁹ However, where certain aggravating factors are present, the Commission has made knowing and willful findings as to the organization itself and has found that respondents acted knowingly and willfully where knowledge of the illegal nature of the activity can be attributed to its most senior officers and efforts to conceal the conduct.⁶⁰ Here, senior executives were repeatedly informed about the prohibitions and limitations of the Act and sought to destroy evidence of their illegal

⁵⁶ E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:07 pm) (MEPCO_00000212).

⁵⁷ E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:08pm) (MEPCO_00000211).

⁵⁸ See, e.g., MUR 6515 (Professional Fire Fighters of Wisconsin) (Commission entered into conciliation agreement for knowing and willful 441f violations); MUR 6143 (Galen Capital Group) (same); MUR 6454 (Snapper) (same). But see MUR 5357 (Centex) (Commission entered into conciliation agreement with respect to non-knowing and willful 441f violations based on mitigating circumstances).

⁵⁹ See Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16,695, 16,696 (Apr. 5, 2007) ("*Sua Sponte* Policy").

⁶⁰ See, e.g., MUR 6515 (Professional Fire Fighters of Wisconsin) (Commission found reason to believe that respondents knowingly and willfully violated the Act where officers of the Executive Board submitted false expense forms to receive reimbursements for political contributions); MUR 6143 (Galen Capital Group) (Commission found reason to believe respondents knowingly and willfully violated the Act where CEO and other conduits signed donor cards containing warnings against reimbursed contributions and where CEO attempted to conceal true purpose of reimbursement checks). See also *Sua Sponte* Policy, 72 Fed. Reg. at 16,697.

1 activity. Further, Mepco's reimbursement program was not a "one-time event" but "an ongoing
2 pattern of conduct repeated over an extended period of time" resulting in the reimbursement of
3 contributions apparently worth more than \$600,000.⁶¹ Given the egregious nature of the scheme
4 here, which would have likely continued, but for the fact that it came to light only when outside
5 counsel inquired into the financial accounting of the entities in connection with Mepco's
6 bankruptcy proceeding, the present circumstances do not warrant refraining from making a
7 knowing and willful finding in this case.

8 Accordingly, the Commission finds reason to believe that Karen Hughes, R. Kevin
9 O'Dell, Brian M. Osborn, Steven B. Polce, and Richard R. Usery knowingly and willfully
10 violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f).

⁶¹

Sua Sponte Policy at 16,697.